HOUSE OF REPRESENTATIVES.

SATURDAY, *July 27, 1912.*

The House met at 12 o'clock noon.

The Chaplain, Rev. Henry N. Couden, D. D., offered the following prayer:

Be very near to us, O Father; we need Thee every moment. Thou art infinite, we are finite. Thou knowest all things, we know only a little. Thou art almighty, we are very weak. Thou art divine, we are human; sometimes our zeal displaces judgment, sometimes our desires dethrone reason. Sometimes our egotism makes us forget our dependence upon Thee and we wander far afield. Control our thoughts, direct our ways that we may be profitable servants unto Thee our Father. Amen.

The Journal of the proceedings of yesterday was read and approved.

WOOL AND MANUFACTURES OF WOOL.

Mr. UNDERWOOD. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill H. R. 22195, an act to reduce the duties on wool and manufactures of wool, have a reprint of the same ordered, printing and numbering the Senate amendments, and to disagree to the Senate amendments and send the bill to conference.

The SPEAKER. The gentleman from Alabama [Mr. UNDERWOOD] asks unanimous consent to take the wool bill from the Speaker's table and have it printed with the Senate amendments numbered, and to disagree to the Senate amendments and ask for a conference. Is there objection?

Mr. PAYNE. Reserving the right to object, Mr. Speaker, I suppose the bill will go to conference eventually anyway. It has been suggested to me to offer a motion to agree to the bill with the amendment offered to it which I offered before, and which was voted unanimously on this side as a substitute for the Senate bill. Having had a record vote on that, I am disposed to let it go to conference without any vote this morning and not make any objection to it.

The SPEAKER. Is there objection?

Mr. WARBURTON. Mr. Speaker, reserving the right to object——

Mr. ANDERSON of Minnesota. I object, Mr. Speaker.

Mr. UNDERWOOD. Mr. Speaker, I ask that the Speaker refer the bill to the Committee on Ways and Means.

The SPEAKER. The bill is referred to the Committee on Ways and Means.

EXTENSION OF REMARKS.

Mr. NORRIS. Mr. Speaker, I want to submit, so that there may be no question about it, a request to extend and revise the remarks that I made the other day. I think I made the request, but the manuscript I have from the reporters does not show it.

The SPEAKER. The gentleman from Nebraska [Mr. NORRIS] asks unanimous consent to extend in the RECORD the remarks which he made the other day. Is there objection? [After a pause.] The Chair hears none.

THE RECORD.

Mr. WARBURTON. Mr. Speaker, in the CONGRESSIONAL RECORD of this morning there appears a speech of the gentleman from Wyoming [Mr. MONDELL]. During the delivery of that speech I made some interruptions, and I particularly requested that I might see the RECORD before it was printed, but it was not sent to me. In the speech as revised there are some mistakes which I wish to correct.

The SPEAKER. Does the gentleman claim that his remarks are not properly set forth?

Mr. WARBURTON. Just a moment. I have requested the official reporters to give me a copy of the official report; and next week I desire to make some corrections of the speech as printed and also possibly to make a few remarks in reference to the subject then under discussion.

ALASKA.

Mr. FLOOD of Virginia. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H. R. 38) providing for legislative assembly in the Territory of Alaska, and ask that it be printed, with the Senate amendments numbered, and to disagree to the Senate amendments and ask for a conference.

The SPEAKER. The gentleman from Virginia [Mr. FLOOD] asks unanimous consent to take from the Speaker's table the bill H. R. 38, and that the same be printed, with the Senate amendments numbered, and to disagree to the Senate amendments and ask for a conference. The Clerk will report the title.

The Clerk read as follows:

An act to create a legislative assembly in the Territory of Alaska, to confer legislative power thereon, and for other purposes.

The SPEAKER. Is there objection?

Mr. MANN. Mr. Speaker, reserving the right to object, there are several amendments to this bill, introducing entirely new matter, which I think ought to be considered in some shape in the House. I think the gentleman ought to let the bill go to his committee and report it back in the usual way. I shall, therefore, have to object.

Mr. FLOOD of Virginia. Mr. Speaker, I ask that the bill be referred to the Committee on the Territories.

The SPEAKER. The bill is referred to the Committee on the Territories.

CONTINUATION OF COAL MINING IN WYOMING.

Mr. ROBINSON. Mr. Speaker, I call up the conference report on Senate joint resolution 100.

The SPEAKER. The Clerk will report the title.

The Clerk read as follows:

Senate joint resolution 100, authorizing the Secretary of the Interior to permit the continuation of coal-mining operations on certain lands in Wyoming.

Mr. ROBINSON. Mr. Speaker, I ask unanimous consent that the statement be read in lieu of the report.

The SPEAKER. Is there objection?

There was no objection.

The conference report is as follows:

CONFERENCE REPORT (NO. 1052).

The committee of conference on the disagreeing votes of the two Houses on the amendments of the House to Senate joint resolution No. 100, authorizing the Secretary of the Interior to permit the continuation of coal-mining operations on certain lands in Wyoming, having met, after full and free conference have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendments of the House and agree to the same with an amendment as follows:

Strike out of the House amendment the words "July first, nineteen hundred and thirteen," and insert in lieu of the words stricken out the words "otherwise provided by law," and that the House agree to the same.

JOS. T. ROBINSON,
EDWARD T. TAYLOR,
F. W. MONDELL,
Managers on the part of the House.

REED SMOOT,
C. D. CLARK,
GEO. E. CHAMBERLAIN,
Managers on the part of the Senate.

The statement was read, as follows:

STATEMENT.

The conferees on the part of the House on the conference asked by the Senate on the disagreeing votes of the two Houses on Senate joint resolution No. 100 report that the conference agreement leaves the legislation as it passed the House, except that the time limit during which the Secretary of the Interior may arrange for the continuation of the coal-mining operations is stricken out and the termination of the operations is left to the discretion of Congress.

JOS. T. ROBINSON,
EDWARD T. TAYLOR,
F. W. MONDELL,
Managers on the part of the House.

Mr. MANN. Mr. Speaker, will the gentleman yield?

Mr. ROBINSON. Yes; I yield.

Mr. MANN. As I understand, there was a time limit in this resolution as passed by the House?

Mr. ROBINSON. Yes; July 1, 1913.

Mr. MANN. Yes; fairly restrictive; and that, under the conference report now, there is practically no time limit at all.

Mr. ROBINSON. If the gentleman will permit me, I will make a statement. The original bill, as passed by the Senate, authorized the continuance of these operations under the order issued by a Federal court in Wyoming. The Interior Department suggested that in lieu of that bill there should be enacted a provision authorizing the continuance of mining operations on all lands where mines have been established and where the claims to the lands had been rejected. The Committee on the Public Lands of the House did not think it proper under a

AUTHENTICATED U.S. GOVERNMENT INFORMATION GPO

bill of this character to consider legislation of that general kind, but on account of the necessity existing in that peculiar locality we did decide that it was necessary to authorize the continuance of the operations by the Owl Creek Mining Co., and therefore we provided that they might be continued until July 1, 1913. The Senate agreed to that amendment, with an amendment providing that the operations might be continued until further action by Congress. The House conferees agreed to that amendment, for the reason that to refuse to do so might make necessary action by Congress again concerning the subject matter, and because under the amendment Congress can take action on the matter at any time it desires under the amendment suggested by the Senate. We did not believe it desirable to enact a general leasing provision in a bill like this.

Mr. MANN. Mr. Speaker, the original bill as it passed the House provided that a certain company should have the right to mine coal on terms to be fixed by the Secretary of the Interior until July 1, 1913.

Mr. ROBINSON. Yes.

Mr. MANN. That was to tide over an emergency situation. Under that bill, when passed, if the company desired to continue operations after July 1, 1913, it would have to secure additional legislation from Congress, either general or special. Now, the conference committee strikes out that limitation and puts in a provision that means nothing—that they may have this right until Congress shall otherwise provide. Of course Congress can otherwise provide at any time. Regardless of that, Congress can legislate upon the subject, whether it is in this bill or not. That provision does not confer any rights upon Congress. We already have the authority to legislate. This provision is a mere subterfuge, a mere throwing of sand in the eyes of Congress. It means nothing except to give this company an indefinite right to mine coal on property which we claim does not belong to it; and then the company, instead of seeking to encourage legislation from Congress, will do everything it can to prevent legislation by Congress.

Mr. FOSTER. And it also settles a lawsuit that has been pending for some time, and is now pending in court?

Mr. MANN. Yes.

Mr. MONDELL. Mr. Speaker, will the gentleman yield?

Mr. MANN. Yes; I yield.

Mr. MONDELL. The gentleman from Illinois wants to be fair, and——

Mr. MANN. Oh, I have heard that so often that I am tired of it. I am fair.

Mr. MONDELL. I presume the gentleman is. The time limit fixed in the provision in the House bill is so brief that there was no way of determining whether the cases between the Government and the company could be settled in that time or not. They may not be settled for a year or more. The cases are not determined at this time, and until they are determined these operations ought to continue; and we simply provide that they shall continue until otherwise provided by law.

Now, if the cases are settled, the Secretary of the Interior can at any time call the attention of Congress to the matter, and action can be had. The idea was simply to avoid the necessity of coming to Congress again within a year.

Mr. MANN. In the one case the company, having its right expire, will want to bring it to the attention of Congress; and in the other case the company, having an indefinite right, will use all its powers to prevent its coming to Congress.

Mr. MONDELL. I do not understand that the coal company would have any power or influence to prevent a matter from coming to Congress. I want to call attention to the fact that the Secretary of the Interior reported favorably upon a proposition indefinite in time.

Mr. ROBINSON. Now, Mr. Speaker, under the bill, if this amendment is agreed to, the Secretary of the Interior has the power to prescribe any regulations or any rules that he sees fit to make, and impose any reasonable charge for rental that he may desire. There is ample power to safeguard every interest of the Government. The objection to the suggestion for general legislation made by the Secretary of the Interior comes from those who oppose the establishment of a leasing system.

There are many members of the committee who believed that that ought to be done. Others objected to it very strenuously, and we regarded it as impracticable to inject a question of that importance into the consideration of a bill of this kind. But the bill does recognize, in a sense, the right of the Government in this particular case to lease these lands, although that term is not used in the bill; and I submit to the gentleman from Illinois, who I regret is not now listening, but who says he is always fair, and who is always so prompt to approve himself and to confirm his own judgment, that there can be no objection on the part of the Government to this proceeding, unless it be that the legislation is not general enough and does not extend far enough.

I have already stated the reasons that moved the committee not to report a general leasing bill affecting all lands on which mining operations are being conducted and the title to which is in litigation. It would effect no useful purpose to fix a time limit unless it can be known when the litigation will end, and the committee could not determine when the litigation will end.

There is nothing to indicate that it will be determined by the 1st of July, although when the House committee reported our amendment we thought probably it would terminate by that time. But upon the termination of the litigation, if it terminates in favor of the United States, Congress will then undoubtedly act further in the matter. Until the litigation is terminated there ought not to arise any necessity for further legislation.

Mr. MANN. Is it not a fact that the petition which was presented for the passage of this bill set out as a reason for passing it that the litigation would probably be determined last winter during the cold weather, when the miners would be thrown out of employment in the wintertime and have no opportunity for any other employment? Now, the gentleman says that although they were then alleging as a reason for passing the bill that the litigation would be determined last winter, it will probably not be determined by a year from the 1st of July.

Mr. ROBINSON. The gentleman knows that the litigation was not determined last winter, so that that statement in the petition, if it was contained there, is now immaterial, and it merely emphasizes the necessity for not placing a restriction in the bill that will make further legislation necessary before the litigation is finished.

Mr. MANN. The reason stated in the petition for passing the bill has fallen to the ground, because the litigation was not determined last winter.

Mr. ROBINSON. There are other reasons that must be apparent to the gentleman, who is evidently acquainted with the situation there. There are hundreds of persons employed in that mine. The operation of the mine is almost of absolute necessity to that community, as well as to the people who are employed in the mine, and it would be absurd and ridiculous for the Congress to legislate twice on the same proposition and be compelled to legislate on it again before the litigation is determined. I believe the proposition is thoroughly tenable; that the Senate amendment improves the bill and does not in any sense injure the Government.

Mr. MANN. Why did not the conferees then provide that this right should be granted until the litigation was determined, instead of granting it indefinitely, so that it will continue, and will not be interfered with, probably, for the next 50 years?

Mr. ROBINSON. That amendment came to conference in the terms that I have suggested, and I submit to the gentleman that it is adequate to carry out the purposes of the legislation, which is to permit the operations to continue until Congress stops them. I ask that the conference report be agreed to.

The SPEAKER. The question is on agreeing to the conference report.

The conference report was agreed to.

NAVAL MANEUVERS, NARRAGANSETT BAY.

Mr. EVANS. Mr. Speaker, I ask unanimous consent for the present consideration of the resolution which I send to the Clerk's desk. It is very short and will only take a minute.

The SPEAKER. The Clerk will report the resolution.

The Clerk read as follows:

House resolution 644.

Resolved, That the Secretary of the Navy be directed, if not incompatible with the public interest, to send to the House of Representatives a complete report of the naval maneuvers held this month of July, 1912, in and around Narragansett Bay, in which maneuvers, according to press reports, six battleships have shown themselves to be helpless against the attack of submarines.

Mr. EVANS. The only reason why I ask——

The SPEAKER. Is there objection?

Mr. MANN. Reserving the right to object, I should like to inquire respectfully whether it is the policy of the Speaker to recognize gentlemen to ask unanimous consent to pass bills or resolutions before they have been introduced regularly?

The SPEAKER. The policy of the Chair has never changed. That is, that under the rule these resolutions go to the basket; but occasionally there is a resolution of pressing necessity that the Chair has taken the liberty of entertaining by the general consent of the House.

Mr. MANN. Disagreeing with the Chair about the pressing necessity of this resolution——

The SPEAKER. The Chair is not talking about the pressing necessity of this one.

Mr. MANN. I am asking about this one. I do not think it is of pressing necessity, and therefore I object.

The SPEAKER. The regular course will be for the resolution to go through the basket.

UINTA INDIAN RESERVATION, UTAH (H. DOC. NO. 892).

Mr. STEPHENS of Texas. Mr. Speaker, I ask unanimous consent to have printed as a House document the reports of E. P. Holcombe and James M. McLaughlin, special Indian inspectors, on the conditions found by them existing on the Uinta Indian Reservation in Utah.

The SPEAKER. The gentleman from Texas asks unanimous consent to have printed as a House document a report on the Uinta Indian Reservation in Utah. Is there objection?

Mr. MANN. Reserving the right to object, what is the purpose of it? Is it to help get through this $3,500,000 judgment, or steal, or whatever you call it?

Mr. STEPHENS of Texas. It has some relation to that matter. These inspectors have made a recent report upon irrigation conditions there.

Mr. MANN. If the gentleman would present a request to have printed as a public document the history of the legislation resulting in that judgment, which ought to cast a blush of shame over honest Members of Congress, I would not object, nor will I object to this.

The SPEAKER. Is there objection? [After a pause.] The Chair hears none, and it is so ordered.

NAVAL APPROPRIATION BILL.

Mr. PADGETT. Mr. Chairman, a few days ago I gave notice that on Tuesday next, July 30, 1912, I would call up for consideration the conference report on the naval appropriation bill. A number of gentlemen say they can not be here at that time. I desire to give notice now that I shall call it up for consideration on Thursday, August 1, 1912.

STEEL INVESTIGATION.

Mr. GARDNER of Massachusetts. Mr. Speaker, I ask unanimous consent to make a very short statement with reference to the minority report of the Stanley steel committee.

Mr. MANN. How much time does the gentleman desire?

Mr. GARDNER of Massachusetts. Only about a minute.

The SPEAKER. The gentleman from Massachusetts asks unanimous consent to make a brief statement respecting the minority report of the Stanley steel investigating committee. Is there objection?

There was no objection.

Mr. GARDNER of Massachusetts. Mr. Speaker, the views of the minority of the Stanley steel committee went to the printer three days ago, and yesterday at 1.30 p. m. were given to the press for future release.

I make this statement for the reason that the view on the steel industry given out by Col. Roosevelt last night singularly correspond in two respects with the conclusions of the minority. These two respects relate to the labor situation and to that part of the Stanley bill which deals with corporations which control over 30 per cent of the domestic product of a given article. Of course Col. Roosevelt has made an error in confusing a rebuttable presumption of unreasonableness with an absolute prohibition in the case of corporations of that sort, but that is a mistake which any man might make on a superficial examination of the Stanley-Brandeis bill.

I know that the world is censorious, and I fear lest it might say that the minority of the Stanley steel committee had purloined the colonel's views, if I were to neglect to point out that we gave our views to the press several hours earlier than the colonel gave out his advance statement.

GENERAL DEFICIENCY APPROPRIATION BILL.

Mr. FITZGERALD. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the state of the Union for the further consideration of the bill H. R. 25970, the general deficiency appropriation bill.

The motion was agreed to.

Accordingly the House resolved itself into the Committee of the Whole House on the state of the Union for the further consideration of the general deficiency bill, with Mr. HAMMOND in the chair.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

SURVEYING THE PUBLIC LANDS.

To enable the Commissioner of the General Land Office to complete the examination and classification of lands within the limits of the Northern Pacific grant under the act of July 2, 1864 (13 Stats., 365), as provided in the act of February 26, 1895 (28 Stats, 683), such examination and classification when approved by the Secretary of the Interior to have the same force and effect as a classification by the mineral land commissioners provided for in said act of February 26, 1895, the unexpended balance, not exceeding $4,500, of the appropriation of $10,000 for the fiscal years of 1911 and 1912, provided in the deficiency act approved March 4, 1911, is hereby continued and made available for expenditure in the examination and classification of said lands during the fiscal year ending June 30, 1913.

Mr. THAYER. Mr. Chairman, I propose to speak for a few minutes on the subject of trusts and the Sherman Act, and in that connection it will be necessary for me to refer to remarks hitherto made by me in reference to the same matter. On May 4, 1911, I addressed the House of Representatives as follows:

"Mr. THAYER. Mr. Chairman, I shall not allude to the size nor the intelligence of this audience. The one is apparent and, I trust, the other will become as evident as I proceed with my discourse. I do not speak, however, merely for the information of this House, but for that far wider audience which reads the daily newspapers and occasionally dips into the CONGRESSIONAL RECORD. Before commencing upon the subject matter of my talk I wish to say a few words to the gentleman from Pennsylvania [Mr. FOCHT], who preceded me. He says that a great many of his Democratic friends hold their seats in this House on account of the abstention of the Republican voters. That may be true of some, but for my district I will say that the vote cast in this last election was over 1,000 larger than that cast in 1908, and that is true of all the vote in Massachusetts. [Applause on the Democratic side.]

"The gentleman from Pennsylvania also alluded to the expense which we would incur in this extra session. Now, the Democrats are not responsible one whit for this extra session, but it was the contumacy of the other branch of the Republican Legislature, the Senate, that caused it. But for my part I welcome this session, and I say that the slight expense to which we are putting the Government of the United States is well repaid by the relief which this House, at least, will offer to the American people. [Applause on the Democratic side.]

"Yesterday the House listened to the able and eloquent speech of my colleague from Massachusetts [Mr. WEEKS], a colleague whose district is adjacent to my own and whose district was enriched in redistricting in 1900 by several safe Democratic towns from the third congressional district, my own, trusting in the assured Republican strength of his and in the weakness which would come to the third district; but the Democratic incumbent at that time was successful in retaining the seat for the Democracy for the two terms which he occupied. He then voluntarily retired, and in this last election the calculations of the Republicans were again upset and the third district became again Democratic. Surely the Lord tempereth the votes to the shorn district. But I bespeak from my Republican colleague in this redistricting, which happened on account of the Massachusetts Congressmen being increased from 14 to 16, a redistricting which I opposed—I bespeak from him the return of my Democratic ewe lambs, and I trust he will not give me back some of those deserted shoe villages with which his county, as well as my own, is so much encumbered. I would ask his reasons for the decadence of these shoe towns, if it is due to the high tariff which has been put upon their products.

"In his discussion of the altruistic business methods of the United Shoe Machinery Co., I asked him if he had in mind the act which was passed by the Massachusetts Legislature in 1907 forbidding a clause of their lease which restricted the lessees from buying or leasing any other machinery from any other vendors or lessors except the said company, and he said he had that in mind, but when I asked him to have that act read from the Clerk's desk he said he could not take up his time to do that. I will ask the indulgence of the House, in the performance of my public duty, to have read this act of 1907 and the supplementary act of 1908 against monopoly. I will ask that the Clerk read act 469 of 1907.

"The CHAIRMAN. The Clerk will read the act in the gentleman's time.

"The Clerk read as follows:

"*Be it enacted, etc., as follows:*

"SECTION 1. No person, firm, corporation, or association shall insert in or make it a condition or provision of any sale or lease of any tool, implement, appliance, or machinery that the purchaser or lessee thereof shall not buy, lease, or use machinery, tools, implements, or appliances or material or merchandise of any person, firm, corporation, or association other than such vendor or lessor; but this provision shall not impair the right, if any, of the vendor or lessor of any tool, implement, appliance, or machinery protected by a lawful patent right vested in such vendor or lessor to require, by virtue of such patent right, the vendee or lessee to purchase or lease from such vendor or lessor such component and constituent parts of said tool, implement, appliance, or machinery as the vendee or lessee may thereafter require during the continuance of such patent right: *Provided*, That nothing in this act shall be construed to prohibit the appointment of agents or sole agents to sell or lease machinery, tools, implements, or appliances.

"SEC. 2. Any person, firm, corporation, or association, or the agent of any such person, firm, corporation, or association, that violates the provisions of this act shall be punished for each offense by a fine not exceeding $5,000.

"All leases, sales, or agreements therefor hereafter made in violation of any of the provisions of this act shall be void as to any and all of the terms or conditions thereof in violation of said provisions."

"An act relative to monopolies and discriminations in the sale of articles or commodities in common use.

"*Be it enacted, etc., as follows:*

"SECTION 1. Every contract, agreement, arrangement, or combination in violation of common law in that whereby a monopoly in the manufacture, production, or sale in this Commonwealth of any article or commodity in common use is or may be created, established, or maintained, or in that thereby competition in this State in the supply or price of any such article or commodity is or may be restrained or prevented, or in that thereby, for the purpose of creating, establishing, or maintaining a monopoly within this State of the manufacture, production, or sale of any such article or commodity, the free pursuit in this State of any lawful business, trade, or occupation is or may be restrained or prevented is hereby declared to be against public policy, illegal, and void.

"SEC. 2. The attorney general, or, by his direction, a district attorney, may bring an action in the name of the Commonwealth against any person, trustee, director, manager, or other officer or agent of a corporation, or against a corporation, to restrain the doing in this Commonwealth of any act herein forbidden or declared to be illegal, or any act in, toward, or for the making or consummation of any contract, agreement, arrangement, or combination herein prohibited, wherever the same may have been made. The superior court shall have jurisdiction to restrain and enjoin any act herein forbidden or declared to be illegal.

"SEC. 3. In such action no person shall be excused from answering any questions that may be put to him, or from producing any books, papers or documents, on the ground that the testimony or evidence, documentary or otherwise, required of him may tend to incriminate him, but no person shall be prosecuted in any criminal action or proceedings, or subjected to any penalty or forfeiture for or on account of any transaction, matter, or thing concerning which he may testify, or produce evidence, documentary or otherwise, in any such action.

"SEC. 4. Nothing in section 1 of this act shall be construed as impairing, repealing, or superseding any statute of this Commonwealth.

"Approved April 28, 1908."

"The discussion of this farmers' free-list bill has already been worn almost to attenuation, but this phase has not been extensively dwelt upon. The gentleman from Indiana has already referred to the fact that at the time my colleague was defending this trust at the Senate end of the Capitol its methods were being pitilessly disclosed. 'Thus the whirligig of time brings about its revenges,' but not often so quickly. It is more like that incident in the New Testament where, while one disputant was protesting against the facts, the feet of those who had borne out the other protestant were already at the door, and in this matter I refer not to the protagonist but to the principal. The conditions of shoe manufacturing in Massachusetts had become so scandalous that in 1907 a movement was started to restrain the abuses which the United Shoe Machinery Co. had injected into its methods. There were long and acrimonious hearings at the statehouse, in which the most eminent and expensive counsel took part.

"The proponents of this act were represented by Hon. Herbert Parker, a former Republican attorney general of the Commonwealth of Massachusetts. Instead of business men of small means having the opportunity to engage in business with leased machinery, the United Shoe Machinery Co. was but the controlling power in a long line of manufacturers, compelling tribute of a greater part of the profits and owning the body, soul, and brain of the hapless men who have been entangled in its net, a slavery as absolute as that of the Incas of Peru. These acts were passed, after a hard struggle, as a measure of relief to the manufacturers, but subsequent events have shown their futility. Recently an opponent named Plant attempted to start an independent organization and began operations on a great scale and with every prospect of success, but suddenly, almost before the promise of relief had been presented to the manufacturers, the Plant system was absorbed by the United Shoe Machinery Co. It transpired that in order to finance his factory Mr. Plant had been obliged to borrow largely from the banks, which had, indeed, solicited his custom, but in some mysterious way all of Plant's notes had found their way into the possession of the United Shoe Machinery Co., and suddenly he was met by the demands for their payment.

"There was no option but that which the United Shoe Machinery Co. offered, and this independent organization was absorbed by the monopoly. This is instructive in itself as showing for what purposes the accumulated deposits of the common people are used, like the pinions of the eagle, to their own destruction. It is unnecessary to ask 'Upon what meat has this our Cæsar fed that he has grown so great?' There has been competent testimony that a machine which the United Shoe Machinery Co. leases for $1,200 a year it sells outright to foreign purchasers for $400—a difference of $19,600 computed on a 6 per cent basis, of $23,600 computed on a 5 per cent basis, and $29,600 computed on a 4 per cent basis. And then we are asked not to remove the duty from the product because, perforce, the foreign manufacturer is using American machinery and will undersell our own manufacturers. If there are more elevated heights of impudence it remains for some Peary to discover them or some Cook to assume to. As to the reliefs we are entitled to, there are several. First, the removal of all duties from all products of monopoly, whether machinery or product. Second, the invocation of the United States law. I am inclined to agree with Senator BAILEY and the United States Supreme Court as enunciated in Continental Wall Paper Co. against Lewis Voight & Sons Co. (148 Fed. Rep., 939, 950) as pertinent:

"The consumer, at last, is the only real victim. It is the consumer who makes up the public, which it is the object of the law to protect against undue exaction through illegal combinations in restraint of freedom of commerce and fair play in commercial transactions.

"It ill becomes monopolies like the United Shoe Machinery Co., which is throttling independent manufacturers and has become the arbitrary head of a great part of the shoe business, to cry out that we are destroying an American industry when we are reducing the cost of living to that class which works the hardest and receives the least reward for its labor. Conditions will not be bettered until we not only meet their challenge but remove, as above stated, the duties on their products, which are only an extortion on the American people, and, further, refuse admission to interstate commerce of all products of monopolies of whatever kind or nature.

"He that withholdeth corn—

"And by corn I opine Solomon meant not only all cereals but all the necessities of life—

"the people shall curse him, but blessings shall be upon the head of him that selleth it.

"[Applause.]"

On May 15, 1911, the decision in the Standard Oil case was handed down, and on May 29, 1911, the decision in the American Tobacco case, in which cases the contract or monopoly legislated against was by judicial interpretation declared to be only such as was "undue" or "unreasonable." On June 8, 1911, I introduced into the House H. R. 11380 and H. R. 11381, which, as amended, became H. R. 24115 and H. R. 24116, and are set forth in full further on. They had been contemplated for some time previously. They were, however, intended to extend the provision of the Sherman Antitrust Act, but also intended to cover all cases, whether the restraint of trade or competition was sufficient to create a monopoly or not. I am not aware that there is any dispute as to the essential facts on which these remedial bills are based. It is apparent that at least one industry in this country has acquired such a control over certain machines, first by patents, and then when these had expired, by the conditions which naturally follow from the business situation evolved from the manipulation of these monopolies. I use "monopoly" in the last sentence as a patent monopoly and not in the antitrust sense.

By means of the control of certain essential machinery used in the shoe industry the United Shoe Machinery Co. forced the shoe manufacturers to use machinery, and in some cases material, under their control and gradually stifled a competition in the manufacture of shoe machinery.

The Massachusetts condition has been referred to and the measures passed by the legislature for relief, but owing to the extent of territory in the United States in which the manufacture of shoes is carried on, it seemed best that these provisions should be embodied in national legislation and made broad enough to prevent any such restraint of trade or competition as I have set forth. Whether fostered by the patent laws or by monopoly gained thereunder, or by any other method, the evils of monopolies like those set forth are self-evident, and do not need any extensive comment.

All are well acquainted with the monopolistic growth of the last 25 years, and, I believe, are eager to restrain everything that tends to injure the community as a whole. It has been shown and evidenced that not only does monopoly of this kind stifle invention, but also inventions which are obtained by such a monopoly are held back from use as long as possible, so that practically out-of-date machines have to be continued in our manufactories and will be continued until foreign competition grows so keen that they have to be replaced in order to save the life of the monopoly. Last summer it was proposed to put shoes on the free list. Shoe manufacturers complained that they could not continue to manufacture if this was done, although the present tariff is 10 per cent, and although a few years ago the shoe manufacturers had stoutly maintained that they needed no protection whatever; but the burdens imposed upon them by the United Shoe Machinery Co. monopoly were so great that they had been obliged to retract this statement. It has been shown by figures in the Patent Office that patents taken out by the United Shoe Machinery Co. have been pending from 5 to 13 years. It is possible, or rather it is probable, that with the example of this corporation other monopolies of the same

kind will soon grow up and control other business interests as it has controlled the shoe interests.

I asked the Commissioner of Patents if he had any statements in regard to patents in general, as to how long they were in the office, and he stated that he had not, and that he would have to take each patent individually and determine from that how long it had been after the application before it was issued. We have some few statements, showing how long the different patents that the United Shoe Machinery Co. have recently taken out were in the Patent Office before finally issued. This ranged from 5 to 15 years.

The evils which these bills attempt to forestall are set forth in language which is sufficiently explicit for all to understand. Other concerns than the United Shoe Machinery Co. have used its methods, which have resulted in monopolies, restriction of trade, and suppression of useful patents. There have been extended hearings on these bills before the House Judiciary Committee; and the necessity of such legislation has been repeatedly demonstrated since these hearings began.

In the famous case of Sidney Henry et al. against A. B. Dick Co., Chief Justice White said:

But the result of this analysis serves at once again to establish, from another point of view, that the ruling now made in effect is that the patentee has the power, by contract, to extend his patent rights so as to bring within the claims of his patent things which are not embraced therein, thus virtually legislating by causing the patent laws to cover subjects to which, without the exercise of the right of contract, they could not reach, the result being not only to multiply monopolies at the will of an interested party, but also to destroy the jurisdiction of the State courts over subjects which from the beginning have been within their authority.

Again, a curious anomaly would result from the doctrine. The law in allowing the grant of a patent to the inventor does not fail to protect the rights of society; on the contrary, it safeguards them. The power to issue a patent is made to depend upon considerations of the novelty and utility of the invention and the presence of these prerequisites must be ascertained and sanctioned by public authority, and although this authority has been favorably exerted, yet when the rights of individuals are concerned the judicial power is then open to be invoked to determine whether the fundamental conditions essential to the issue of the patent existed. Under the view now maintained of the right of a patentee by contract to extend the scope of the claims of this patent it would follow that the incidental right would become greater than the principal one, since by the mere will of the party rights by contract could be created, protected by the patent law, without any of the precautions for the benefit of the public which limit the right to obtain a patent.

But even if I were to put aside everything I have said and were to concede for the sake of argument that the power existed in a patentee, by contract, to accomplish the results which it is now held may be effected, I nevertheless would be unable to give my assent to the ruling now made. If it be that so extraordinary a power of contract is vested in a patentee, I can not escape the conclusion that its exercise, like every other power, should be subject to the law of the land. To conclude otherwise would be but to say that there was a vast zone of contract lying between rights under a patent and the law of the land, where lawlessness prevailed and wherein contracts could be made whose effect and operation would not be confined to the area described, but would be operative and effective beyond that area, so as to dominate and limit rights of everyone in society, the law of the land to the contrary notwithstanding.

And the President said December 5, 1911, in his message on the antitrust statute:

I see no objection—and indeed I can see decided advantages—in the enactment of a law which shall describe and denounce methods of competition which are unfair and are badges of the unlawful purpose denounced in the antitrust law. The attempt and purpose to suppress a competitor by underselling him at a price so unprofitable as to drive him out of business, or the making of exclusive contracts with customers under which they are required to give up association with other manufacturers, and numerous kindred methods for stifling competition and effecting monopoly, should be described with sufficient accuracy in a criminal statute on the one hand to enable the Government to shorten its task by prosecuting single misdemeanors instead of an entire conspiracy, and, on the other hand, to serve the purpose of pointing out more in detail to the business community what must be avoided.

And again, May 10, 1912, in his message on the patent law:

In recent years, however, combinations based upon patents have been formed which have succeeded in controlling very largely the output of particular industries, and this control has been extended by contracts based upon the patents, requiring the users of patented machines to buy from the corporations owning the patents or from firms under their control supplies or other articles to be used in connection with the patented machines. Some of the circuit courts of appeal have held that such contracts, based upon patents, were valid, and that those who violated the terms of such contracts were liable as contributory infringers. The correctness of such decisions has recently received the approval of the Supreme Court of the United States in the case of Sidney Henry et al. *v.* A. B. Dick Co., by the vote of four justices of the seven who heard the case. An application for a rehearing of that case by the full bench was made and denied, so that the construction put upon the existing law in that case must be regarded as conclusive. Several bills have been introduced into Congress, as I am informed, to obviate the effect of this decision so as to prevent a patentee from extending by contract the monopoly secured to him under the patent law. This question calls for careful consideration.

On this subject the Boston Herald said in an editorial September 29, 1910:

PATENT MONOPOLIES.

One of the many changes that have been made in the leases of the United Shoe Machinery Co. in recent years has an importance that should not be overlooked. It is so strikingly suggestive of the general plan by which ordinary patent rights have been supplemented by the power of leases and the grip of the monopoly on the shoe-manufacturing industry has been perpetuated that it may, in a measure, be said to be the keystone of the structure which has been built up. Former leases of the company contained a clause stipulating that the lessee should pay as rent or royalty a certain sum for each pair of various kinds of boots, shoes, or other footwear "manufactured or prepared whether wholly or in part by the aid of the leased machinery or any part thereof," a previous paragraph in the same lease (relating in this case to turned goods) having stipulated that the "leased machinery shall be used only in the manufacture of boots, shoes, and other footwear, the soles of which are or shall be attached to their uppers by turn sewing machines hereby or by other instrument heretofore or hereafter leased to the lessee by the lessor or its assignor." The later leases contain a similar clause, but with an important change, stipulating that the rent or royalty shall be paid on each pair of boots, shoes, or other footwear "which shall have been in whole or in part attached to welts by the use of any welting or stitching or sewing machinery," or, in the case of turned product, "the soles of which shall have been sewed or attached to their uppers in whole or in part by the use of any sewing or stitching machinery."

It is significant that during the past few years important patent rights on shoe-stitching machinery has expired, and that what was for many years a seemingly insurmountable obstacle for the creation of an independent line of shoe machinery has been removed. The early stitching machine, which in many respects is as serviceable as any improved machine protected by later patents, is now free from the restrictions of patents and is available for any shoe manufacturer. The rights of the patentee or his assigns, as fixed by law for a reasonable and just period, have been observed. But, although the restrictions of the patent rights have been ended, the manufacturer using any part of the monopoly system must continue to pay full royalty on every pair of shoes of his product the soles of which have been sewed or stitched on "any" machine. By virtue of the lease there is therefore secured an indefinite perpetuation of the patent monopoly. Although the essential patent rights on the stitching machine expired more than a year ago, leases issued within the past year have bound the shoe manufacturer to pay royalty on every pair of shoes the soles of which have been sewed, stitched, or attached to the uppers by "any" machinery for a period of 17 years.

Technical discussion of the lease would be folly for a layman. Representing, as it does, the perfecting labor of years and the professional skill of the monopoly's corps of counselors, it requires on its technical side similarly able and expert handling. But the layman, especially the shoe manufacturer and the shoe worker, can appreciate fully the condition created by this system of leases superimposed on patent rights, and although unqualified to judge whether or not the lease is "law" can form a conclusion whether or not it is justice and consistent with the general welfare. And every man is competent to form his share of public opinion to demand, if necessary, new law by which justice and equity can be enforced.

Some points in the lease which are the basis of the shoe manufacturers' complaint have been pointed out. The lessee is required to keep the machinery in such state of repair as may be determined by the inspectors of the lessor, buying all parts exclusively of the company at such prices as they may determine. At the expiration of the lease he must return the machinery to the company's headquarters and pay such sum as may be deemed necessary to put the machine in condition suitable to lease to another lessee. And beyond that he must pay to the lessor the sum of $150 as partial reimbursement for deterioration, etc. He must use the machinery exclusively on shoes made by the monopoly's system, and he is bound to use the machines to their full capacity, limited only by the extent of his factory product. Various other conditions are imposed in this ironclad lease, and, finally, lest some holes may have been made by the legislative "bomb" of 1907, every vulnerable part of the lease is protected by an additional plate of armor, which declares that "independently of and in addition to all other rights, the lessor shall have the right to terminate this lease and license at any time upon 30 days' notice." Apparently the law of 1907 is a worthless protection to the shoe manufacturer. He still holds a 30-days' lease of his shoe-manufacturing equipment, subject to the grace and pleasure of the shoe-machinery monopoly.

It can not be conteaded that such conditions are healthful. The normal rights of the patentee against which no one protests are being exploited to the detriment of the industry. Inventive genius except as it chooses to serve the monopoly is stifled for want of a market. An unwarranted tribute is laid on the shoe manufacturer and in turn on the shoe wearer. There has been and continues to be an enormous aggregation of surplus profits to fortify the monopoly against attack. The situation demands a remedy. If present laws are inadequate, the prosecuting officers of the Government who are the custodians of the people's interests, should speedily determine that fact by a test in the courts. Then, if necessary, the legislatures should act.

The New York Journal of Commerce, January 31, 1912:

A REASONABLE PATENT-LAW AMENDMENT.

Whatever may be thought of the bill introduced in the House of Representatives by Mr. THAYER, of Massachusetts, relating to restrictive terms and conditions in selling, leasing, or licensing patented articles, there can be no doubt that the brief and simple measure "regarding the date of patents, time allowed for interference claims in extending date, and annulment of patents," ought to be passed. We can see no reasonable ground of objection to it and much reason why it should become law.

The first section, which is only half a dozen lines long, provides that when patents are issued they shall date back to the time of the application, except that in case of interference they shall date from the time of the settlement of interference, if that is within two years of the application, otherwise from the end of the two years. An invention is really protected from infringement from the time the patent is "applied for." The result is that delay in issuing the patent prolongs its term by so much beyond the legal limit of 17 years, and advantage has often been taken of this to extend the term to 25 or 30 years. If the patent is not granted in the end, the applicant has had all the advantage of one during the delay. If there is interference, the protection from infringement is in doubt until that is settled, and it is only fair to have the patent date from that time, if it is within a reasonable limit.

The second section of the bill is equally brief and explicit. It provides that patents shall be annulled unless within three years of the date of their issue the patented articles shall be "put upon the market in sufficient quantity, whether by sale, lease, or license, to satisfy the reasonable demand of the public and at reasonable prices." The word-

ing of this is somewhat dubious, but the purpose is important, and properly applied it would put an end to one of the serious abuses of "patent rights" under the present law.

It is a common practice to obtain patents upon new inventions, by application or by purchase from the first patentee, for the very purpose of keeping them out of use, because they would come in competition with patented devices already in use. In this way important improvements are held back and kept out of use for the public benefit in order that old devices may be profitably continued. The holder of the patents does not use them, but prevents anybody else from getting possession. This is in direct conflict with the constitutional purpose of the patent law.

The New York Press, March 18, 1912:

PATENT LEGISLATION.

Our attention has been called to the several bills introduced by Representative JOHN ALDEN THAYER, of Massachusetts, amending the patent laws. They were all offered at various times long before the decree of the Supreme Court was given in the mimeograph patent case, and were apparently in unwitting anticipation of just such decision.

Counsel interested in these bills inform us that H. R. 11381 of this series "provides, in brief, that no owner of, or anyone having any interest in, any letters patent covering any tool, implement, appliance, or machinery shall so sell, lease, or license the article so as to restrain or attempt to restrain or prevent the vendee, lessee, or licensee from using any tool, implement, appliance, machinery, material, or merchandise not furnished by the vendor, lessee, or licensor."

Representative THAYER'S other bills appear also to be well intentioned, but they all need to be carefully considered with regard not only to their intent, but to their effect. And while Congress is at it the time seems to be ripe for a thorough overhauling of all the patent laws. It is generally believed that neither the true inventor nor the public profits very much by the patent law as it exists.

The chief opponent of this legislation has been the United Shoe Machinery Co., and in addition to presenting its case by the most eminent counsel it has caused every Congressman to be besieged by letters prepared by the company from retail dealers who do not understand the purport of the acts and who have failed to reply to requests for information as to whether they have ever read the bills. Another feature in their methods is shown in their attempts in regard to the press.

In the discussion on the Post Office appropriation bill I took occasion in offering an amendment to animadvert on this as follows:

"Mr. Chairman, this amendment which I have offered may meet the suggestion of the gentleman from Illinois [Mr. MANN] in regard to innocent persons mailing newspapers contrary to this bill; but that is not the chief purpose for which I offer it. That great jurist, long an ornament of the Supreme Court of the United States, Joseph Story, never uttered a wiser or more statesmanlike sentence than when he wrote this motto for the Salem Register:

"Here shall the press the people's rights maintain
Unaw'd by influence and unbrib'd by gain.

"If that were the condition of the press to-day, the amendment of the gentleman from Indiana [Mr. BARNHART] would not be necessary, but we are 'fallen on evil days,' and we are obliged to resort to severe measures to restrain what was once the bulwark of our liberties from becoming the artillery park of 'antirepublican tendencies.' The amendment is a step, and but a step, in the right direction. I can foresee many methods by which this salutary amendment will be evaded, and, while I do not now offer any legislation on this subject, I desire to state from my own experience, and what is doubtless the experience of many gentlemen on the floor of this House, an example which will plainly show the need of restrictions like those presented by the gentleman from Indiana [Mr. BARNHART], if not much more drastic ones.

"If we wish to see where the editorial sentiments of the papers come from, we do not need to look so much at the names of the owners, stockholders, and directors as we need to look at the advertising pages of those newspapers. There is where the milk in the cocoanut is to be found. It is through that source that we can tell how the editors will write.

"It was my fortune in attempting to restrain the monopolistic tendencies of modern commercialism to present two bills similar in form and in purpose, but relating to two different aspects of the ways in which the business in articles could be controlled. Those bills, as properly amended, are as follows:

"[H. R. 11380, Sixty-second Congress, first session.]

"A bill to prevent restrictions or discriminations in the sale, lease, or license of tools, implements, appliances, or machinery covered by interstate commerce.

"*Be it enacted, etc.*, That no person, firm, corporation, or association engaged in interstate commerce having any interest, whether as owner, proprietor, beneficiary, licensee, or otherwise, in any tool, implement, appliance, or machinery shall, directly or indirectly, in making any sale or lease of or any license entered into in the course of trade or commerce between the several States or with foreign nations or in any Territory of the United States, or the District of Columbia, or between any Territory of the United States and the District of Columbia, or any Territory of the United States or any State or any foreign nation, or between the District of Columbia and any Territory of the United States, or any State or States or foreign nation, to any such article, restrain or attempt to restrain or prevent the vendee, lessee, or licensee from using any tool, implement, appliance, machinery, material, or merchandise not furnished by or with the approval of the vendor, lessor, or licensor, whether by making any condition or provision, express or implied, against such use by a term of any sale, lease, or license to use, or by requiring any obligation, express or implied, against such use from the vendee, lessee, or licensee of the article, or by imposing any restrictions upon the use of the article sold, leased, or licensed, or by making in the price, rental, royalty, or other terms of any such sale, lease, or license any discrimination based upon whether the vendee, lessee, or licensee uses or purchases any such tool, implement, appliance, machinery, material, or merchandise or not, or by any other means whatsoever: *Provided, however*, That nothing in this act shall be construed to prevent any such vendor, lessor, or licensor from requiring that during the continuance of any letters patent on any such article no patented component or constituent parts of the tool, implement, appliance, or machine required for use thereon be purchased except from such vendor, lessor, or licensor: *And provided further*, That nothing in this act shall be construed to prohibit the appointment of agents or sole agents to sell or lease machinery, tools, implements, or appliances.

"SEC. 2. That any such person, firm, corporation, or association who shall violate the provisions of this act, and any other person, whether or not an agent of such owner, proprietor, or beneficiary, who shall willfully or knowingly assist in or become a party to any such violation shall be punished for each offense by a fine not exceeding $5,000 or by imprisonment not exceeding one year, or by both such fine and imprisonment.

"SEC. 3. A proceeding in equity to prevent and restrain violations of this act may be brought by any person injured in his business or property by any other person or corporation by reason of anything forbidden or declared to be unlawful by this act in any district court of the United States in the district in which the defendant resides or is found or in which the act complained of was committed; and in addition thereto or separately therefrom may sue, without respect to the amount in controversy, and shall recover threefold the damages by him sustained, and the costs of suit, including a reasonable attorney's fee.

"SEC. 4. The several district courts of the United States are hereby invested with jurisdiction to prevent and restrain violations of this act; and it shall be the duty of the several district attorneys of the United States, in their respective districts, under the direction of the Attorney General, to institute proceedings in equity to prevent and restrain such violations. Such proceedings may be by way of petition setting forth the case and praying that such violation shall be enjoined or otherwise prohibited. When the parties complained of shall have been duly notified of such petition, the court shall proceed, as soon as may be, to the hearing and determination of the case; and pending such petition and before final decree, the court may at any time make such temporary restraining order or prohibition as shall be deemed just in the premises.

"SEC. 5. Whenever it shall appear to the court before which any proceeding under section 4 of this act may be pending that the ends of justice require that other parties should be brought before the court, the court may cause them to be summoned, whether they reside in the district in which the court is held or not, and subpœnas to that end may be served in any district by the marshal thereof.

"SEC. 6. Any property owned under any contract or by any combination or pursuant to any conspiracy (and being the subject thereof) mentioned in section 1 of this act and being in the course of transportation from one State to another or to a foreign country shall be forfeited to the United States, and may be seized and condemned by like proceedings as those provided by law for the forfeiture, seizure, and condemnation of property imported into the United States contrary to law.

"SEC. 7. That the word 'person' or 'persons' wherever used in this act shall be deemed to include corporations and associations existing under or authorized by the laws of either the United States or the law of any of the Territories, the laws of any State, or the laws of any foreign country."

"[H. R. 11381, Sixty-second Congress, first session.]

"A bill to prevent restrictions or discriminations in the sale, lease, or license of tools, implements, appliances, or machinery, or the use of any method or process covered by the United States patent laws.

"*Be it enacted, etc.*, That no person, firm, corporation, or association having any interest, whether as owner, proprietor, beneficiary, licensee, or otherwise, in any letters patent of the United States covering any tool, implement, appliance, or machinery, method, or process shall, directly or indirectly, in making any sale or lease of or any license to any right under such patent or to any article which embodies or includes the invention covered by such letters patent, restrain or attempt to restrain or prevent the vendee, lessee, or licensee from using any tool, implement, appliance, machinery, material, or merchandise not furnished by or with the approval of the vendor, lessor, or licensor which does not infringe such letters patent, whether by making any condition or provision, express or implied, against such use by a term of any sale, lease, or license to use, or by requiring any obligation, express or implied, against such use by the vendee, lessee, or licensee of the article, or by imposing any restrictions upon the use of the article sold, leased, or licensed, or by making in price, rental, royalty, or other terms of any such sale, lease, or license any discrimination based upon whether the vendee, lessee, or licensee uses or purchases any such other tool, implement, appliance, machinery, material, or merchandise or not, or uses any such other method or process, or by any other means whatsoever: *Provided, however*, That nothing in this act shall be construed to prevent any such vendor, lessor, or licensor from requiring that during the continuance of such letters patent no patented component or constituent parts of the tool, implement, appliance, or machine required for use thereon be purchased except from such vendor, lessor, or licensor: *And provided further*, That nothing in this act shall be construed to prohibit the appointment of agents or sole agents to sell or lease machinery, tools, implements, or appliances.

"SEC. 2. That any such person, firm, corporation, or association having interest in any such letters patent who shall violate the provisions of this act, and any other person, whether or not as agent of such owner, proprietor, or beneficiary, who shall willfully assist in or become a party to any such violation shall be punished for each offense by a fine not exceeding $5,000 or by imprisonment not exceeding one year, or by both such fine and imprisonment.

"SEC. 3. That if any person, firm, corporation, or association is convicted a second time of any offense under this act in connection with such letters patent, such letters patent shall thereupon become null and void.

"SEC. 4. Proof of violation of this act shall be a good defense to any action for infringement of any patent in connection with which said violation occurs.

"SEC. 5. Any person injured by violation of this act may bring an action for recovery of damages against any party so violating in any district court of the United States or in the district wherein the act complained of was committed or wherein the defendant resides or is found.

"In connection with them and with the Lenroot bill, H. R. 15926, a long amendment to the Sherman Antitrust Act, lengthy hearings were held before the Judiciary Committee. At the time these measures were introduced in the House of Representatives the press of Boston especially took considerable notice of them, as the practices at which they were aimed were largely those of the United Shoe Machinery Co., of Boston. From time to time some mention was made of them in the papers, necessitated by the fact that the United States Government had, after these measures were introduced, brought indictments against some of the directors of the company and also a bill in equity for the dissolution of the company.

"But when the hearings on the bill were begun, after brief notices of the opening days, some of the papers ceased all mention of the proceedings, and others mentioned only the evidence which appeared favorable to the United Shoe Machinery Co., but not the evidence advanced in favor of the measures, and not one of the Boston papers gave the final arguments in their favor. About the time the hearings were concluded Judge Gray had made a suggestion on the framing of the final decree dissolving the Powder Trust—

"that the Sherman Act does not make a specific regulation; it is much to be desired that Congress in its future legislation would so regulate commerce between States that, however drastic that regulation may be, the business of the country will be compelled to accommodate itself to it.

"Judge Putnam, in the indictment of the United States versus Directors of the United Shoe Machinery Co., had said substantially the same. These decisions were followed by the dissenting opinion of a strong minority of the court—Justices White, Hughes, and Lamar—in the celebrated Henry case, where the division was four to three. Justice White said:

"Because of the hope that if my forebodings as to the evil consequences to result from the application of the construction now given to the patent statute be well founded, the statement that the application of my reasons may serve a twofold purpose: First, to suggest that the application in future cases of the construction now given be confined within the narrowest limits, and, second, to serve to make it clear that if evils arise their continuance will not be caused by the interpretation now given to the statute, but will result from the inaction of the legislative department in failing to amend the statute so as to avoid such evils.

"On account of this decision it was seen that a change in the law was imperative, and the Boston newspapers, as well as the press of the country in general, took notice of these hearings which had been already held. The Boston Transcript, besides speaking specifically of these measures, devoted considerable space to the patent laws. But the question naturally arises, Why had not the press of Boston paid more attention to these measures, which were honestly intended to restrain monopolistic control and in which New England was peculiarly interested on account of the presence within her borders of one of the offenders of the law, and also because remedial legislation was advocated by one of her Congressmen? Their attitude may be explained in part by the following statement and editorial from the Boston American, which has always been the determined foe of monopoly, whether business or political, and also because—alas, too often we are compelled to look to the advertising columns of the newspaper to discover how the editorial and news columns will treat any subject related to its principal source of revenue:

"[Boston American, Friday, Feb. 2, 1912.]

"SHOE MACHINERY TRUST GOES INTO THE NEWSPAPER BUSINESS—HAS THE BOSTON 'TRAVELER,' GETS THE LYNN 'NEWS,' AND ADDS THEM TO THE 'TIMES' OF GLOUCESTER AND 'NEWS' OF NEWBURYPORT—EDITORIAL AGENTS LOOKING FOR OPPORTUNITIES IN SALEM AND HAVERHILL—BOUND TO HAVE NEWSPAPERS EVERYWHERE THAT WILL BE 'FAIR-MINDED'—TRAVELER EDITOR, WHO WANTED TO PRINT A STORY THAT SHOE-MACHINERY WINSLOW DIDN'T WANT PRINTED, ISN'T THE TRAVELER EDITOR ANY MORE—SMITH AND HIGGINS, THE MEN ON THE TRAVELER JOB FOR SIDNEY W. WINSLOW, AND SMITH AND HIGGINS ARE ALSO THE MEN ON THE JOB IN LYNN, GLOUCESTER, AND NEWBURYPORT—PERHAPS THEY'LL PLANT A 'FAIR' PAPER IN SALEM AND HAVERHILL, TOO.

"Confirmation of the report that the Boston Traveler had passed under the control of the president of the United Shoe Machinery Co. was followed to-day by the discovery that the head of the Shoe Machinery Trust is also a big figure in at least three other Massachusetts newspapers and that his representatives in the newspaper field have their eyes on two cities more.

"The president of the Shoe Machinery Trust is Sidney Wilmot Winslow. Mr. Winslow's shoe-machinery offices are located in Lincoln Street. His homes are at Beverly, at Brewster—the Cape Cod town where he was born less than 60 years ago—and at No. 10 Commonwealth Avenue.

"President Winslow's bright young men in the newspaper business are Fred E. Smith, of Newburyport, once the Republican postmaster of the city at the mouth of the Merrimac, and James H. Higgins, also of Newburyport.

"THE TRUST NEWSPAPERS.

"The list of newspapers now controlled by Sidney W. Winslow, through Smith and Higgins, is as follows:

"In Boston, the Boston Traveler; in Lynn, the Lynn Evening News; in Gloucester, the Gloucester Times; in Newburyport, the Newburyport News.

"Why the shoe-machinery people should be interested in newspaper publications to the extent of securing editorial or financial control is a matter for conjecture, but it was pointed out to-day that in every case save one the shoe-machinery newspapers on the above list are published in what might be called shoe towns.

"The Boston Evening Traveler, now completely under Winslow's control, is printed in the great wholesale center of the shoe business in North America.

"Making shoes is the principal business of Newburyport, where Smith and Higgins get out the Evening News for Mr. Winslow. Lynn, where they print the News, is the 'Shoe City' of the United States.

"The attitude of the local press toward the shoe manufacturers in the shoe cities—and it is known that Mr. Winslow's young men have for some time been feeling out the probable chances for a paper in Salem and Haverhill—is an extremely important factor in the business of these manufacturers.

"Shoe manufacturers occasionally have difficulties with 'labor.' The local paper is able to take the middle of the road in these controversies or it may side with one disputant or the other.

"Shoe manufacturers may also have trouble with the assessors. In these disputes, also, it is not unpleasant to find the local newspaper your friend.

"Suggestions of this sort have been made to American reporters who, for several days, have been investigating the great interest shown by the big fellows of the Shoe Machinery Trust in the newspaper business.

"These suggestions appear to have been based upon suspicion most unjust, for, on the authority of a man who claims to know the situation in Lynn, the American was to-day furnished with information going to show that, in that city, at least, Mr. Winslow has merely taken steps to see that a paper which formely was unfair shall hereafter be fair-minded.

"A COOLIDGE IDEA.

"In addition to its four Massachusetts dailies—with at least two more to come—the Shoe Machinery Trust has for two or three years maintained one of the best press bureaus in the country.

"This press bureau is supposed to have the benefit of the wisdom and experience of Mr. Louis A. Coolidge. Mr. Coolidge is treasurer of the United Shoe Machinery Co. He used to be famous as one of the best newspaper correspondents at Washington, D. C.

"Coolidge in 1904 was president of the Gridiron Club at Washington. He had then been a Washington correspondent for more than a dozen years. He was a great friend of President Roosevelt. He was a member of the Roosevelt 'tennis cabinet,' and in the presidential campaign of 1904 the Roosevelt folks put Coolidge in as director of the Republican literary bureau.

"In 1908 he was appointed Assistant Secretary of the Treasury. He might have gone higher—as high as Hitchcock—if Winslow hadn't come along with the proffer of a place paying considerable more money than Uncle Sam allows even the best of his servants. Coolidge became treasurer of the Shoe in 1909.

"NO POLITICS IN MOVE.

"In addition to its advertising in all sorts and conditions of daily papers, weekly papers, trade journals, souvenir publications, and monthly magazines, the press department of the United Shoe Machinery Co. has at times sent broadcast a lot of advertising to be run as 'pure reading matter.'

"When Smith and Higgins, of Newburyport, under the kind patronage of Sidney W. Winslow, of the United Shoe Machinery Co., began the establishment of a syndicate of newspapers in northwestern Massachusetts, there was commonly supposed to be 'politics' behind it.

"The first guess was that John Hays Hammond wanted something. Mr. Hammond denied the soft impeachment. Gradually Mr. Winslow was uncovered, the Lord Bountiful of a free press.

"If Mr. Winslow wanted anything in politics, it has not been apparent since the time when, in 1908, he set out to be an anti-Taft delegate to the Republican national convention from Beverly. His ambitions were rudely punctured at that time by Capt. Augustus Peabody Gardner, of Hamilton.

"WHAT IS REAL PURPOSE?

"There was, however, last July, a movement to put Treasurer Coolidge up as the Republican candidate for lieutenant governor. Not very much came of that movement at that time.

"With these guesses removed from consideration, there is left the proposition that the shoe-machinery crowd desires to place newspapers in shoe-manufacturing towns for purposes which may appear later.

"It is the belief of everybody on the inside at Washington, according to advices which came a day or two ago to the Boston American, that the shoe-machinery company is in a way of extricating itself from a very unpleasant position before the enforcers of the Sherman Antitrust Act.

"It is, of course, well known that the shoe-machinery company is among the many which have been indicted under the Taft administration. There are cynics in Massachusetts who have thought that able gentlemen would make smooth the way of the 'United Shoe' at Washington, quite as other gentlemen made smooth the way of the New York, New Haven & Hartford Railroad in Mr. Roosevelt's time.

"TRUST HEADS AT WASHINGTON.

"Not only Treasurer Louis A. Coolidge, formerly of the Roosevelt tennis cabinet, but Mr. Charles F. Choate, jr., one of the ablest, if not the ablest, extricator in New England, have been in Washington for many days in the interests of President Winslow's $50,000,000 corporation.

"There was a report last week—since denied by the defendant company—that the Shoe Machinery Trust was about to throw up its hands and surrender. According to a Washington story which has come to the Boston American the Shoe Machinery Trust is getting ready to be let off easily. It is going to reorganize or readjust or re-something.

"First of all the United Shoe has got to drop that 'exclusive' feature out of its contracts with manufacturers. Apparently the shoe manufacturer is to be at liberty to buy and lease where he will.

"And so, it is thought, the shoe-machinery people have decided that it will be helpful under the new agreement to have a daily newspaper in each of the shoe centers. Hence they have to-day the Boston

Traveler, the Lynn News, the Gloucester Times, and the Newburyport News.

"And they have been looking for footholds, as will be explained, in Salem and Haverhill. Shoe-machinery papers in these cities are to come later.

"FIRST WINSLOW PAPER.

"The first of the Winslow newspaper ventures was the News, of Newburyport. Jim Higgins, who took charge of this venture, was one of the Winslow protégés. Mr. Winslow is celebrated for his good judgment in picking able young lieutenants.

"Fred Smith, who had been the Newburyport postmaster and who was close to the Republican State machine at that time, was associated with Higgins in the News venture. The relations that existed between these young men and President Winslow were well known in that corner of Essex.

"Smith and Higgins did so well with the News, of Newburyport, that they next essayed Gloucester. Here they got control of the Times.

"Next on the list of Smith-Higgins-Winslow papers came the Boston Traveler.

"Mr. Winslow inserted his bright young men into the Boston Traveler quietly.

"THE TRUST AND THE TRAVELER.

"Nearly two months ago—on December 13, to be exact—there appeared in the Boston Post an item which said that a number of changes had taken place of late in the Boston Traveler. The Post item said that Mr. E. H. Baker, of Cleveland, Ohio, had retired as general manager and publisher of the Traveler.

"Up to that time—and for some time—Mr. E. H. Baker, of Cleveland, had been the dominating factor in the Traveler. When the 'Cleveland' interests took over the Traveler, Mr. Baker appeared as the Traveler's principal executive. The man 'on the job' for Mr. Baker was Mr. Baker's son, Frank S., who has made his home in Quincy.

"More than a year ago—or early last year—it became known in financial circles in Boston, and to those on the inside of Boston newspaperdom, that one of the 'largest factors' in the Traveler was Sidney W. Winslow, of the United Shoe Machinery Co.

"RUMOR OF TROUBLE IN CAMP.

"To-day it is said that not only was this true at that time, but that other officials of the Shoe Machinery Co. are interested in the Boston Traveler in an alliance with Albert F. Holden, of Cleveland, Ohio, one of the principal officers of the United States Smelting, Refining & Mining Co. President Winslow is one of the directors of that company.

"Along in the middle of last summer there were continuous rumors of trouble in the Traveler camp.

"For one thing it was said that Mr. Marlin E. Pugh, then the managing editor of the Traveler, had been printing in the Traveler altogether too many things tending to annoy and displease President Sidney W. Winslow and the gentlemen quietly associated with Mr. Winslow at that time in the Traveler enterprise.

"It also became known at about that time that Mr. Winslow, now supposed to be merely the 'angel' back of the Traveler, had lost his admiration for Mr. E. H. Baker, of Cleveland, Ohio.

"THE POST CORRECTION.

"And, some time after midsummer, it became known that while Mr. E. H. Baker continued to be known as an official of the Traveler, Mr. E. H. Baker was no longer the gentleman who was giving orders in the Boston Traveler's office. Then came the announcement that Messrs. Smith and Higgins had come in.

"The item which the Boston Post printed on December 13, however, was corrected by the Boston Post on the following day.

"On December 14 last the Boston Post reported that Mr. Frank S. Baker (the son of E. H.) was and would continue to be the publisher of the Traveler. The Post said further, in this correction, that Mr. Frank S. Baker's father had never been active in the management of the Traveler, but would continue to act, as before, as president of the Evening Traveler Co.

"TRUST TAKES OVER LYNN NEWS.

"And then the Boston Post went on to say that Mr. Frank S. Baker had 'recently called into association with him Mr. James H. Higgins and Mr. Fred E. Smith, publishers of the Newburyport News and the Gloucester Times, who will act in an advisory capacity.'

"The picture thus presented, of the Bakers, of Cleveland, Ohio, and Boston, Mass., digging up editorial 'advisers' in Newburyport and Gloucester, caused some quiet merriment at the time. All this was well enough, however, until, lo and behold, along came the Boston Herald last week with an item telling how the Lynn Evening News had been bought by Mr. Winslow's Smith and Higgins.

"Representatives of the bondholders of the Lynn Evening News, the Boston Herald said last week, had sold the News to Smith and Higgins 'free of the mortgage.' The Herald identified Smith and Higgins as the gentlemen 'who have recently secured a large interest in the Boston Traveler.'

"The Boston Traveler, it may be said in passing, did not print this item, nor has the Boston Herald 'corrected' it.

"Public sentiment, it has been pointed out by several with whom reporters of the American have discussed the shoe machinery newspaper syndicate in the past few days, has come to be regarded as a dangerous factor in the affairs of big business.

"The larger corporations and the trusts, therefore, it has been pointed out, are on the qui vive with reference to the 'development' of this public sentiment.

"Having the Boston Traveler, the Newburyport News, and the Gloucester Times, Mr. Winslow and his friends next stepped into Lynn. There they took the plant of the Lynn Evening News.

"The Lynn News was practically down and out. It had some $50,000 in outsanding bonds The paper was largely controlled by the Lynn Gas Co. and the General Electric Co. When the paper blew up, indeed, there appeared in the list of its bondholders the name of President C. A. Coffin, of the General Electric Co.

"Also there appeared there the names of former Gov. Eben S. Draper and former Lieut. Gov. Louis A. Frothingham.

"Interesting stories are told in Lynn about the blowing up of the Evening News.

"The gentleman who had dominated the paper for some time is said to have been a Mr. Bolton, of New Haven, Conn.

"Mr. Bolton had an editor in charge of the Lynn Evening News who appears to have been of the same kidney as Merlin Pugh, the Boston Traveler editor, whose sayings and doings so annoyed the philanthropic Mr. Winslow.

"Regardless of the fact that the Evening News bonds were in hands at least friendly to the Lynn Gas Co., this Evening News editor displayed a most unpleasant penchant for going after the said gas company and lambasting it fore and aft.

"Whereupon, according to the gossip of Lynn, the gas people hied themselves to Publisher Bolton, saying, 'What meanest thou?' and 'Desist,' and like manner of exclamation.

"And the good Mr. Bolton, say the gossips of Lynn, threw up his hands as one who is guiltless and said, 'I can not help it; it's me editor.'

"The which, as was soon to develop, did not go.

"There came a day when it was time to pay interest on the bonds, and the cupboard was bare. The unpleasant editor had gone away some time previously, but the men of money were relentless, and there was nothing doing for the Lynn News.

"At about this time the thought appears to have struck Mr Winslow that the Lynn Evening News should be succeeded by a journal which would treat the business interests of Lynn fairly, and so it came to pass that Smith and Higgins added the Lynn Evening News to a string of papers which already included the Newburyport News, the Gloucester Times, and the Boston Traveler.

"In addition to his controlling interest in the affairs of the Boston Traveler, President Winslow, of the Shoe Machinery Trust, has at least a friendly interest in the affairs of one other Boston newspaper.

"President Winslow has been seen at the Hotel Touraine of late in the company of the editor of this other Boston newspaper. Vice President George W. Brown, of the Shoe, has apartments at the Touraine.

"In Salem the United Shoe Machinery's newspaper set are reported to have made advances to Col. Robin Damon, who has printed the Salem Evening News for a great many years and is generally credited with having found a gold mine in it. Up to this time the Shoe Machinery newspaper set have merely made advances to Col. Damon.

"The Haverhill situation is said to be that the Shoe Machinery folks are waiting for the psychological moment.

"All of which interesting newspaper information is offered to the newspaper readers, the advertisers, and the newspaper people of Massachusetts for the good that it may do.

"President Winslow, of the United Shoe Machine Co., wants the press of Massachusetts to be 'fair.' Of course President Winslow stands by the constitution of Massachusetts, which declares that 'the liberty of the press is essential to the security of freedom in a State; it ought not, therefore, to be restrained in this Commonwealth.'"

"[Editorial in Boston American, Feb. 3, 1912.]

"MONOPOLISTIC GAGGING OF THE PRESS MEANS THE POISONING OF THE WELLS OF AMERICAN PUBLIC OPINION.

"The hundreds of thousands who read this newspaper day by day and who are each day steadily adding to their numbers will have read with amazement the exposure of press gagging which the American made on the first page of yesterday's editions.

"It is an exposure which should blanch the cheek of every thoughtful citizen who reads it. Every paragraph, every line of the shameful story has full material to make men pause.

"This story of the Shoe Trust and its controlled chain of newspapers is the opening of a chapter whose ending no man can foresee.

"It is the unveiling, rather the unmasking, of a powerful conspiracy to muzzle the American press, to poison the wellsprings of American public opinion.

"From the dawn of this Republic onward to this very hour the free, untrammeled, independent, patriotic press of America has been the stoutest bulwark of the people's rights and of the Nation's liberties.

"Greater than fleets and armies, greater than all the genius of statesmanship, the press of America, free, independent, patriotic, has stood firm and strong and true against all injustice and against every encroachment upon the domain of the people's rights.

"Every stone that was laid in the fabric of American institutions during the struggling days which followed '76 was bonded in the cement of a free and solid, patriotic, and independent American press, racy of the soil and loyal in all its utterances.

"Is this bond in danger of dissolution? Is this long-cemented union to be melted 'like snow before the sun,' in the corroding acid of corporation corruptive influence?

"Here is a question for the American people to face; no other people will face it for them.

"It is an issue as deep and as pregnant as any that has reared itself since Washington and his confrères gave this Nation birth.

"It is a problem as serious as any that has come before the people since the martyred Lincoln spoke his inspiring prayer upon the field of Gettysburg.

"Gagging the press of America, bringing it under the control of monopolistic corporations, seven-eighths of whom are said to be persistent violators and defiers of the Nation's laws, is a crime fully in the class with the poisoning of the wells when hostile armies are on the march.

"An independent, patriotic journalism is the very lifeblood of this Republic.

"It is for the people to see that it endures."

"My own home paper, the Worcester Evening Post, was, as far as I know, the only paper in New England that published full and adequate reports of both sides of the subject, as it always does, thus fulfilling the functions of a real newspaper.

"The United Shoe Machinery Co. is a large advertiser—for what purposes its officers can best tell, for it has a virtual monopoly of the shoe-machinery business—in the metropolitan press, and therefore it can be, perhaps, inferred without any large stretch of the imagination that such a good customer's wishes must be respected. Now, during the pendency of these measures it has published in the New York Sun, a full-page advertisement describing its works in Beverly and its general beneficence (?). An experience of a colleague of mine, the Hon. EDWARD W. TOWNSEND, of New Jersey, is somewhat similar. March 29 of this year he made a unique speech on the tariff, showing that the mortality among infants in the textile manufacturing towns was larger than elsewhere. Shortly afterwards a supplement of many pages appeared in the New York Sun describing the various textile industries of the United States.

"I think that in order to have more perfect operation of the Barnhart amendment the sums paid by the largest advertisers

should be quarterly or annually announced. Then perhaps the overt influences in the news and editorial columns might be revealed.

"That one of the greatest agencies through which the English-speaking people obtained and maintain their freedom should now bid fair to become an instrument, if not to destroy it, at least to hinder its accomplishments, is a sad commentary on the plutocratic development of the last two decades. Was it for this that Wilkes suffered imprisonment and fought for years against the Crown; that Fox and Burke thundered their philippics in favor of an untrammeled press; that our own Hamilton fought and won; and that Greeley, Raymond, Webb, and Bennett built great newspapers? We who believe we are right fear no publicity. We are willing that the people should decide the justice of our cause, but we demand and will obtain an impartial hearing. But, perchance, 'because their deeds are evil our opponents love darkness' and do not court publicity. Fortunately, there is one paper in the United States which does not contain any advertisements, avowedly, at least, and here, if nowhere else, a fair and impartial treatment can be given of subjects relating to the interests of the people with the confident trust that they will prevail.

"Because right is right, to follow right
Were wisdom in the scorn of consequence."

The United Shoe Machinery Co. has claimed that it is a beneficent trust, but while considerable could be said in contradiction thereof, it is entirely immaterial whether this is a beneficent trust, as some former President of this country of ours might call it, or whether it is a bad trust, exacting the last pound of flesh from all of its lessees, by the admission of its own counsel it is a monopoly, and it is a monopoly such as this that the Sherman bill is aimed at and which the decisions of the United States courts say are illegal, whether they are beneficent or not. I refer to The United States *v.* Missouri Freight Association (186 U. S., 240).

The following language of the late Mr. Justice Peckham, who delivered the majority opinion of the court in United States *v.* Trans-Missouri Freight Association (166 U. S., 290), well may be applied to the situation presented here. In that case, after stating that the changes resulting from the natural development and improvement in the methods of carrying on different lines of business necessarily leaves behind them for a time men who must seek other avenues of livelihood, the learned justice said (pp. 323, 324):

It is wholly different, however, when such changes are effected by combinations of capital, whose purpose in combining is to control the production and manufacture of any particular article in the market, and by such control dictate the price at which the article shall be sold, the effect being to drive out of business all of the small dealers in the commodity and render the public subject to the decision of the combination as to what price shall be paid for the article. In this light it is not material that the price of an article may be lowered. It is in the power of the combination to raise it, and the result in any event is unfortunate for the country by depriving it of the services of a large number of small but independent dealers who are familiar with the business and who have spent their lives in it and who supported themselves and their families from the small profits realized therein. Whether they be able to find other avenues to earn their livelihood is not so material, because it is not for the real prosperity of any country that such changes should occur which result in transferring an independent business man, the head of his establishment, small though it might be, into a mere servant or agent of a corporation selling the commodities which he once manufactured or dealt in, having no voice in shaping the business policy of the company, and bound to obey orders issued by others. Nor is it for the substantial interests of the country that any one commodity should be within the sole power and subject to the sole will of one powerful combination of capital.

The counsel for the company prepared certain figures in regard to wages in this country. Now, talking in percentages is a mighty handy thing and also mighty confusing. I had prepared by the Census a brief statement of wages in Massachusetts in a number of shoe manufactories, the capital, and so forth. I will not inflict it upon you, but I wish to state that in Massachusetts the number of establishments has decreased from 893 in 1904 to 860 in 1909, a decrease of 3.7 per cent. That in the city of Brockton, the home of the most beneficent recipients of the United Shoe Machinery Co.—Messrs. Donovan, Keith, Douglas, and so forth—the number of establishments has decreased from 82 to 75, or 8.5 per cent, and in Lynn, where the greatest progress was made during this time, the number of establishments has decreased from 211 to 207, 1.9 per cent.

In regard to wages. There is a little book published by the Department of Commerce and Labor which shows the increase in wholesale prices at different periods. The increase in 1904 to 1909 was 18 per cent exactly on articles used by the laboring man to support himself, and I want you to see how much the wages have increased at this time in these factories. In all of them in Massachusetts it has increased $38, or less than 10 per cent.

In the Paper Bag patent case, which Mr. Fish referred to in his argument (210 U. S., 405), particularly 429 and 430, the court says:

But, granting all this, it is certainly disputable that the nonuse was unreasonable or that the rights of the public were involved.

The right which a patentee receives does not need much further explanation. We have seen that it has been the judgment of Congress from the beginning that the sciences and the useful arts could be best advanced by giving an exclusive right to an inventor. The only qualification ever made was against aliens, in the act of 1832. That act extended the privilege of the patent law to aliens, but required them "to introduce into public use in the United States the invention or improvement within one year from the issuing thereof," and indulged no intermission of the public use for any period longer than six months. A violation of the law rendered the patent void. The act was repealed in 1836. It is manifest, as is said in Walker on Patents, paragraph 106, that Congress has not "overlooked the subject of non-user of patented inventions." And another fact may be mentioned. In some foreign countries the right granted to an inventor is affected by nonuse. This policy, we must assume, Congress has not been ignorant of, nor of its effects. It has, nevertheless, selected another policy; it has continued that policy through many years. We may assume that the period has demonstrated its wisdom and beneficial effect upon the arts and sciences.

From that opinion it is plain that Congress has not exhausted its right in regard to restrictions upon patents. Mr. Justice Harlan was the only justice on the Supreme Court who dissented from the opinion of the justices, even in this restricted use of the patent, in the Paper Bag case.

In the Blount Manufacturing Co. *v.* Yale & Towne Manufacturing Co. (166 Fed. Rep., 555), particularly page 560, it says:

It is a fact, familiar in commercial history, that patent rights have a commercial value for purposes of extinction. That many patents are perfected in order to prevent competition of new inventions and of new machines with old machines already installed. The equitable status of an owner of a patent who has purchased and held it in nonuse for this purpose is still an open question, and was not determined by the Paper Bag patent case.

In Bement *v.* The National Harrow Co. (186 U. S., 70), particularly at pages 90 and 91:

If he sees fit he may reserve to himself the exclusive use of his invention or discovery. If he will neither use his device nor permit others to use it, he has but reserved his own. That the grant is upon reasonable expectation that he will either put his invention to practical use or permit others to avail themselves of it upon reasonable terms, is doubtless true. This exception is based alone upon the supposition that the patentee's interest will induce him to use, or let others use, his invention. The public has retained no other security to enforce such expectation. A suppression can be but for the life of the patent, and the disclosure he has made will enable all to enjoy the fruits of his genius. His title is exclusive and so clearly within the constitutional provisions in respect to private property, that he is neither bound to use his discovery himself nor permit others to use it. The dictum found in Hoe *v.* Knapp (17 Fed. Rep., 204) is not supported by reason or authority.

On page 91:

There are decisions also in regard to telephone companies operating under licenses from patentees, giving them the right to use the patents for the purpose of operating public telephone lines, but prohibiting companies from serving within certain districts any telephone company, and it has been held in the lower Federal courts that such a prohibition was of no force; that it was inconsistent with the grant, because a telephone company, being in the nature of a common carrier, was bound to render equal service to all who applied and tendered the compensation fixed by law for the service; that while the patentees were under no obligation to license the use of their inventions for any public telephone company, yet, having done so, they were not at liberty to put restraints upon such public corporation which would disable it to discharge all the duties imposed upon companies engaged in the discharge of duties subject to regulation by law. It could not be a public telephone company and could not exercise the franchise of a common carrier of messages with such exceptions to the grant. Authorities cited.

The difficulty of applying any such bills as this to intrastate commerce has been suggested, and in answer to that I want to refer to the decision of the United States court on the employers' liability act. That will show that the statutes of the United States can work effectively both in and without the State, to the extent that they have jurisdiction. The State courts will be obliged to take notice of the United States statutes.

The platforms of the two parties on the subjects of trusts in 1912 are as follows:

MONOPOLY AND PRIVILEGE.

The Republican Party is opposed to special privilege and to monopoly. It placed upon the statute books the interstate-commerce act of 1887, and the important amendments thereto, and the antitrust act of 1890, and it has consistently and successfully enforced the provisions of these laws. It will take no backward step to permit the re-establishment in any degree of conditions which were intolerable.

Experience makes it plain that the business of the country may be carried on without fear or without distrust, and, at the same time, without resort to practices which are abhorrent to the common sense of justice. The party favors the enactment of legislation supplementary to the existing antitrust act which will define as criminal offenses those specific acts which uniformly mark attempts to restrain and monopolize to the end that all who obey the law may have a guide for their action, and that those who aim to violate the law may the more surely be punished. The same certainty should be given to the law prohibiting combinations and monopolies that characterizes other provisions of commercial law, in order that no part of the field of business may be restricted by monopoly or combination, that business success honorably achieved may not be converted into crime, and that the right of every man to acquire commodities, and particularly the necessaries of life, in open market uninfluenced by the manipulation of trust or combination may be preserved.

DEMOCRATIC PROMISE—ANTITRUST LAW.

A private monopoly is indefensible and intolerable. We therefore favor the vigorous enforcement of the criminal as well as the civil law against trusts and trust officials and demand the enactment of such additional legislation as may be necessary to make it impossible for a private monopoly to exist in the United States.

We favor the declaration by law of the conditions upon which corporations shall be permitted to engage in interstate trade, including among others the prevention of holding companies, of interlocking directorates, of stock watering, of discrimination in price, and the control by any one corporation of so large a proportion of any industry as to make it a menace to competitive conditions.

We condemn the action of the Republican administration in compromising with the Standard Oil Co. and the Tobacco Trust and its failure to invoke the criminal provisions of the antitrust law against the officers of those corporations after the court had declared that from the undisputed facts in the record they had violated the criminal provisions of the law.

We regret that the Sherman antitrust law has received a judicial construction depriving it of much of its efficiency, and we favor the enactment of legislation which will restore to the statute the strength of which it has been deprived by such interpretation.

They are but amplifications of previous utterances by either side. If they mean anything beyond the trite witticism that "platforms are good things to get in on," then we are justified in construing them as not mere empty phrases, but replete and vital with political wisdom. From all this it is apparent that the law should be so plain that "he may run who readeth" if he would escape the penalty of its violation. The need of legislation is plain and of a specific kind to prevent specific violations, which these bills clearly offer. We shall do less than our duty if we fail to heed this need. The greatest foe to the welfare of the American people we can, if we will, lay prostrate at the feet of the law. It is for us to decide, but we can not say that we have not seen the evil nor that a means to eradicate it has not been offered.

Mr. CANNON. Mr. Chairman, I ask unanimous consent to extend my remarks in the RECORD.

The CHAIRMAN. Is there objection?

There was no objection.

Mr. FOSTER. Mr. Chairman, I make the same request.

The CHAIRMAN. Is there objection?

There was no objection.

Mr. BURLESON. Mr. Chairman, I make the same request.

The CHAIRMAN. Is there objection?

There was no objection.

Mr. MAGUIRE of Nebraska. Mr. Chairman, I make the same request.

The CHAIRMAN. Is there objection?

Mr. MANN. Mr. Chairman, reserving the right to object, I would like to inquire whether all of these speeches are intended to be political speeches, because if they are I think they should be fairly divided between the two sides.

The CHAIRMAN. The Chair can not inform the gentleman.

Mr. MANN. But the gentleman who makes the request can.

Mr. BUCHANAN. Mr. Chairman, will the gentleman from Illinois yield?

Mr. MANN. Certainly.

Mr. BUCHANAN. I would like to ask the gentleman which he would prefer, to have the political speeches delivered here and listen to them or to have them printed?

Mr. MANN. Oh, I have no objection to political speeches being delivered, but what I object to is after all of the gentlemen on that side who wish to get authority to extend their remarks in the RECORD for political speeches have obtained it, then later, when somebody from this side makes the same request, to have some gentleman on the other side object to it, as has been done frequently in recent days.

Mr. BUCHANAN. Oh, I think this side has been quite liberal in that respect.

Mr. MANN. I will say that there have been a number of objections to requests on this side, and, I think, no objections on this side to requests of the gentlemen upon the other side.

Mr. HOWARD. Mr. Chairman, I would like to suggest to the gentleman from Illinois that I think all of these speeches will be attacks on the Bull Moose feature in politics.

Mr. MANN. That does not make any difference to me.

The CHAIRMAN. Is there objection to the request of the gentleman from Nebraska to extend his remarks in the RECORD? [After a pause.] The Chair hears none and it is so ordered.

Mr. MOORE of Pennsylvania. Mr. Chairman, I ask unanimous consent to extend my remarks in the RECORD.

The CHAIRMAN. Is there objection?

There was no objection.

Mr. SAMUEL W. SMITH. Mr. Chairman, I make the same request.

The CHAIRMAN. Is there objection?

There was no objection.

Mr. FULLER. Mr. Chairman, I make the same request.

The CHAIRMAN. Is there objection?

There was no objection.

Mr. RAKER. Mr. Chairman, I make the same request.

The CHAIRMAN. Is there objection?

There was no objection.

The Clerk read as follows:

RECLAMATION SERVICE.

The accounting officers of the Treasury are authorized and directed to credit the account of C. G. Duganne, special fiscal agent, United States Reclamation Service, Washington, D. C., with the sum of $390.71, covering items suspended and to be disallowed by the accounting officers of the Treasury Department on the ground that the materials and supplies were not purchased under the general supply schedule, in accordance with the provisions of section 4 of the act of June 17, 1910, said items being shown in detail in House Document No. 832 of the present session, and with any further sum which may be suspended or disallowed by the accounting officers of the Treasury Department in the said fiscal agent's accounts for the quarters ending March 31, 1912, and June 30, 1912, covering purchases which were not made in accordance with the provisions of the above-mentioned act.

Mr. MANN. Mr. Chairman, I move to strike out the last word. With respect to this settlement of accounts for purchases not made in accordance with the purchase of supplies act, why should that cover purchases made during the last quarter of the last fiscal year? Did they not know at that time that the law was applicable; and why could they not conform to it?

Mr. FITZGERALD. The purchases under the law through the general supply committee were in a somewhat uncertain state. A decision of the comptroller was rendered—I forget just when—which reopened a number of accounts and which affected purchases made during a brief period thereafter. It was a condition that seemed to be unavoidable.

Mr. MANN. May I ask the gentleman if it is the intention of these divisions of the Government to comply hereafter with the general law?

Mr. FITZGERALD. Oh, yes. The situation was a very peculiar one. A number of these accounts were suspended in instances which under the circumstances the committee thought should be allowed.

The Clerk read as follows:

Opinions of Attorneys General: To enable the Attorney General to employ, at his discretion and irrespective of the provisions of section 1765 of the Revised Statutes, such competent person or persons as will, in his judgment, best perform the service, to edit and prepare for publication and superintend the printing of volume 28 of the Opinions of the Attorneys General, the printing of said volume to be done in accordance with the provisions of section 383 of the Revised Statutes, $500.

Mr. SLAYDEN. Mr. Chairman, I would like to ask the gentleman from New York whether it is necessary to set aside a provision of law and grant an unusual discretion to the Attorney General? Is there any good reason for it? I suppose, of course, the committee thought so.

Mr. FITZGERALD. My recollection is that it is to permit additional compensation to some person in the department who is selected because peculiarly fitted for this work. He does it out of hours.

Mr. SLAYDEN. The idea is, I suppose, to get some man familiar with the work to do it.

Mr. FITZGERALD. I understand two men were selected in this case, each to be paid $250.

Mr. SLAYDEN. Will that cost any more?

Mr. FITZGERALD. No; it will cost $250 for each man.

Mr. SLAYDEN. Will this provision in the bill make it cost more than it otherwise would?

Mr. FITZGERALD. No; the Attorney General has authority under the revised statutes to have this work done, and this is the usual compensation.

The Clerk read as follows:

For pay of bailiffs and criers, not exceeding three bailiffs and one crier in each court, except in the southern district of New York and the northern district of Illinois: *Provided*, That all persons employed under section 715 of the Revised Statutes shall be deemed to be in actual attendance when they attend upon the order of the courts: *Provided further*, That no such persons shall be employed during vacation; of reasonable expenses actually incurred for travel and maintenance of circuit and district judges of the United States and the judges of the district courts of the United States in Alaska, Hawaii, and Porto Rico, consequent upon their attending court or transacting other official business at any place other than their official place of residence, not to exceed $10 per day, said expenses to be paid by the marshal of the district in which said court is held or official business transacted upon the judge's written certificate of meals and lodgings for jurors in United States cases, and of bailiffs in attendance upon the same, when ordered by the court, and of compensation for jury commissioners, $5 per day, not exceeding three days for any one term of court, $9,000.

Mr. SLAYDEN. Will the gentleman permit another question?

Mr. FITZGERALD. Certainly.

Mr. SLAYDEN. I desire to call the gentleman's attention to this provision at the bottom of page 37 and running over to the top of page 38:

Provided further, That no such person shall be employed during vacation: of reasonable expenses actually incurred for travel and mainte-

nance of circuit and district judges of the United States and the judges of the district courts of the United States and Alaska, Hawaii, and Porto Rico consequent upon their attending court or transacting other official business at any place other than their official place of residence not to exceed $10 per day.

I would like to ask the gentleman if he does not think it would be a wiser policy to fix a definite sum? I do that because my attention has been called to it by a district judge of the United States court who is scrupulous always to put down the many minute charges properly assessed against that account, and he says that it is a constant source of annoyance. He told me it would be much more agreeable to him, and I believe much more agreeable to the judges of the court generally, if a specific sum were fixed, even though it was somewhat less than the actual expenses incurred. I know this is an academic discussion in this case, but it is a matter that might well be considered, it seems to me, for the future.

Mr. FITZGERALD. Mr. Chairman, the matter has been considered, the gentleman probably recollects, a number of times. This bill, of course, carries only the amount required to supply deficiencies in the appropriations to carry out the law.

Mr. SLAYDEN. I understand.

Mr. FITZGERALD. Personally, I believe it would be desirable to give the actual traveling expenses and a fixed sum for subsistence.

Mr. SLAYDEN. It might and probably would effect an economy for the Government, and would relieve these judges who are scrupulous in such matters from the annoyance of keeping a minute account.

Mr. FITZGERALD. This has been thrashed out during the last 8 or 10 years.

Mr. SLAYDEN. And nothing done.

Mr. FITZGERALD. And has occasioned more controversy than anything else.

Mr. SLAYDEN. And yet nothing has ever been done.

Mr. FITZGERALD. Yes; it was changed back and forth. The judicial code act, which was passed in the last Congress, fixed it in this shape. I suppose the Committee on Revision of the Laws, which codified the judicial code, must have gone extensively into the matter and fixed this as the most satisfactory under all the circumstances.

The Clerk read as follows:

For compensation of Members of the House of Representatives, Delegates from Territories, the Resident Commissioner from Porto Rico, and the Resident Commissioners from the Philippine Islands, $3,708.90.

Mr. MANN. Mr. Chairman, I move to strike out the last word. What is the reason for a deficiency in the salaries of Members of Congress?

Mr. FITZGERALD. There is an additional Member from the State of New Mexico.

Mr. MANN. He only takes the place of a Delegate.

Mr. FITZGERALD. There was only one Delegate and now there are two Members from that State.

Mr. MANN. I withdraw the pro forma amendment.

The Clerk read as follows:

To pay the widow of George R. Malby, late a Representative from the State of New York, $7,500.

Mr. MANN. Mr. Chairman, I move to strike out the last word. The items which we have just passed provide for the payment of a year's salary to the widows of deceased Members of Congress which I think is quite proper, but it seems to me that in addition to that Congress ought to make a reasonable provision for the payment of the secretaries of deceased Members. Under existing law and practice when a Member of Congress dies his allowance for clerk hire ceases upon his death, and it has been the custom of the Committee on Accounts to bring in a resolution providing for the payment to that particular clerk of a deceased Member of his salary up to the time of the death of the deceased Member. Of course everyone knows that the work of the clerk does not stop upon the death of the Member of Congress, the work of the district does not stop, and I have always thought and desired to put myself on record in favor of the proposition to pay the clerk of a deceased Member at least a month's salary, and I would not object to paying more than that, certainly something beyond the date of the death of the deceased Member.

Mr. FOWLER. Will the gentleman yield?

Mr. MANN. Yes.

Mr. FOWLER. What would the gentleman do in case the deceased Member had no clerk?

Mr. MANN. Well, you could not pay it directly to the clerk. I am talking about paying the money directly to the clerk of a deceased Member. Of course if he has no clerk there is nobody to pay the money to.

Mr. BUCHANAN. Will the gentleman yield?

Mr. MANN. Certainly.

Mr. BUCHANAN. I think a majority of the Members have clerks.

Mr. MANN. They all certify to it.

Mr. BUCHANAN. If they have not they ought to have, and it seems to me like it would be reasonable to pay the clerk his salary until the vacancy is filled.

Mr. MANN. Well, the clerk might not continue to work until the vacancy was filled. Here is a clerk who attends to the work of the district for its Member; the Member dies, the clerk does not cease to open the mail that comes in and does not cease to give attention to its work; but now he gets no allowance or pay beyond the date of the death of the Member, either for the services he performed or in part compensation to permit him to go home.

Mr. ROBERTS of Massachusetts. If the gentleman will yield, I would like to make another suggestion to the gentleman from Illinois. Many Members bring their clerks from their districts, and on the death of the Member the clerk is left in a very embarrassing position here, and he is stranded, you may say, far from home. His pay is stopped, and there ought to be, as the gentleman from Illinois says, some provision made for clerks to deceased Members.

Mr. MANN. Of course, as a matter of fact, if an employee of the House dies, we pay his widow, or children, or other heirs, six months' salary.

Mr. FITZGERALD. Mr. Chairman, there is very much force in what the gentleman says, but we have no jurisdiction of the matter. I know that in some instances great inconvenience and hardship have resulted. I think some arrangement by which compensation for two months' pay could be arranged by statute would be very desirable.

Mr. MANN. I think we ought to adopt the practice at the first opportunity.

Mr. SHARP. Mr. Chairman, I ask for information. Does this back salary of $7,500 carry any interest?

Mr. MANN. This is not back salary. This is a gratuity to the widow.

Mr. SHARP. Whether it is or not, I am raising this point as to whether it is quite just—at least, the intention may be all right—where the widow has been deprived of the use of this money in some cases, as we see here in this bill, a year longer than others.

Mr. MANN. The widow has not been deprived of the use of it. The widow has had her money as far as her husband earned the salary. This is sort of a mutual insurance which Members get when they come into the House on account of the dangers of serving in this Chamber. [Laughter.]

Mr. SHARP. Some get it earlier than others.

Mr. CANNON. Mr. Chairman, touching the matter referred to by my colleague [Mr. MANN], of course a report from the Committee on Accounts to pay from the contingent fund would cover the ground. The pay of six months' salary to the widow of an employee of the House—money enough to bury him—is covered by resolutions from the Committee on Accounts payable to the contingent fund. I dare say if the Committee on Accounts had acted touching the clerks in cases referred to and passed the resolution auditing the amount and referred the same to the Committee on Appropriations, requesting it be placed in the deficiency bill, following the practice that I understand has obtained in that committee, the bill would have carried that amount for the consideration of the House. But in the absence of some law or some action either from the Committee on Accounts, or some action initiated in the House practically by unanimous consent, I apprehend that the Committee on Appropriations would not act in the premises.

Mr. MANN. If my colleague will yield, it was not in my thought at all to make any criticism of the Committee on Appropriations. I do not think that they would have jurisdiction in this matter. But I merely wished to get a little information, if I could, on the subject for the benefit of the Committee on Accounts.

I have talked with some of the Members of the Committee on Accounts recently and said to them that I thought there ought to be some payment for the clerks beyond the date of the death of a Member. How much it ought to be I would not undertake to say.

Mr. ROBERTS of Massachusetts. Mr. Chairman, the gentleman from New York, chairman of the Committee on Appropriations, expresses sympathy with the clerks of Members who have died while in office. I want to ask him if he would accept an amendment to this pending bill granting to clerks of Members who have died during the present Congress, say, six months' pay, to be in the nature of a deficiency?

Mr. FITZGERALD. No; that is impossible. The gentleman understands I have no right to do anything like that.

Mr. ROBERTS of Massachusetts. Why has not the gentleman the right?

Mr. FITZGERALD. Because I am under obligations to protect this bill against these requests of the House.

Mr. CANNON. I think the gentleman from New York [Mr. FITZGERALD] is correct in his position. Really, the Committee on Accounts ought to move in this matter.

Mr. FITZGERALD. Certainly. They have jurisdiction. There have been a number of requests made to me about different propositions to be offered to this bill. I know that if I should adopt any such policy this bill would carry an enormous sum. This bill is to supply deficiencies in appropriations for past fiscal years, and it has been customary to carry in the bill this gratuity to the widows of the Members of Congress.

Mr. ROBERTS of Massachusetts. Does not the gentleman think it is in the nature of a deficiency to pay to the clerks of Members, who have died prior to this time, a certain amount of money?

Mr. FITZGERALD. It may be in the nature of a deficiency, but it is not of such a character that it can be included in this bill. I could not consent to an amendment.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

To pay the official reporters of debates $735 each and the stenographers to committees $952.50 each to reimburse them for money actually expended by them for clerical assistance and for janitor service to July 1, 1912, $8,220.

Mr. MANN. Mr. Chairman, I move to strike out the last word. I notice that this item provides for paying to the committee stenographers, at least, money expended by them for janitor service. I do not know whether that provision applies to the official reporters or not.

Mr. FITZGERALD. It does not. The janitor and messenger service was provided for, if I recall correctly, for official reporters, and messenger service and janitor service is provided for in the legislative bill for the committee stenographers. This is to take care of the time when they were actually required to have such service and no provision had been made for it.

Mr. MANN. Mr. Chairman, in the Sixty-first Congress both of these sets of stenographers were provided with janitors. And when the Sixty-second Congress met, with great sound of trumpet and beating of drums, the majority on the Democratic side abolished these janitor places, because they were unnecessary, and extravagant, and uneconomical. They announced to the country how much they were going to save. A little while ago they provided for their future in the legislative bill. I see my distinguished friend from Pennsylvania [Mr. PALMER], who fathered the original resolution, listening to me, and I wonder that he does not get excited over going back now in the deficiency bill and paying a year's salary. The amount of the salaries of these janitors who were abolished by this item will not be included in the end in the statement of the monthly expenses of the Sixty-second Congress.

Of course, everybody knew, and everybody knows now, that these stenographers have to have janitors. Everybody except my distinguished friend from Pennsylvania and his Democratic conferees knew when the original resolution was passed that they would have to have janitors. I am glad that in course of time one after another of these places needed for the use of the House is being restored.

Mr. FITZGERALD. Mr. Chairman, at the beginning of this Congress the Democratic majority abolished, in round numbers, about $100,000 of useless positions in the House. The gentleman then predicted that before the expiration of this session they would all be restored and taken as patronage by the Democratic Members. It is now shown that, except to the extent of a janitor or two for the Official Reporters and committee stenographers, no mistake was made in the elimination of these places. They have not been restored, and this side of the House is perfectly willing to admit that in this attempt to reform and eliminate useless and unnecessary places it did go too far—to the extent of one or two janitors only. Having found out the mistake, it frankly and promptly admits it, and is now making provision to reimburse the committee stenographers for the amount expended until the 1st of July. Provision for a janitor and a messenger for the stenographers and reporters was included in the legislative bill for the present year.

It may be that there are one or two other trifling places that I do not now recall which it has been found necessary to restore, but I think the experience of the House has been that it has not missed the horde of employees that blocked every avenue of ingress and egress to and from this Hall in the last 16 years. They have mercifully disappeared.

Mr. MANN. Mr. Chairman, the gentleman is mistaken when he says that I stated that all of these places would be restored as patronage. What I said was that they would either be restored for the use of the House or the House would suffer for the lack of the positions.

As an illustration of the latter, yesterday the Senate sent a resolution to the House asking the House to return to it a certain bill in relation to Hawaii. That bill was a House bill. It had been considered by the House Committee on Territories and reported into the House. It was printed, and, through the handling of some of the employees of the House overburdened with work, it was incorrectly printed. There was a reprint ordered through, I suppose, the committee in order to have it printed correctly, but when it came up to be considered in the House the original print of the bill was read and passed by the House, and went to the Senate and was passed by the Senate, and, through accidental discovery, gentlemen who were interested in the bill learned that the bill that they had intended to have passed was not the bill that had been considered in the House. They did not discover this until they commenced to enroll the bill. The Senate had to reconsider its action and call the bill back. Except for the accidental discovery of the thing at the last moment it would have gone to the President to be signed—a bill that never was really reported by the House properly and was never intended to be passed by the House.

Now, I do not think it was the fault of the employees of the House, except that for lack of sufficient employees of the House in certain places it has been impossible in this and a number of other cases which have been brought to my attention to properly present the papers and to have them properly printed for the use of the House in the consideration of its business.

Mr. PALMER. Mr. Chairman, the gentleman from Illinois [Mr. MANN] has several times, during the present session, made the statement that the Democratic majority in this House would be forced to back water upon its House economy program which it inaugurated at the beginning of this Congress, and he points to this small appropriation for a messenger or janitor for the stenographers to committees as evidence of it. If that is the only evidence which he can produce, he has certainly failed to prove his case.

The fact is that at the time that program was presented to the House I made a statement showing exactly what offices we had abolished and the salaries attached to them, and I coupled with it the frank statement that, as to a few of those places, the plan to abolish was an experiment; that the committee itself was not entirely convinced that we could get along without the services of some of these minor officials and employees; and I named, in the statement which I then made to the House, the positions which we might be compelled, after some experience, to reinstate.

That statement was made at the very beginning, when we knew that it might be possible that we should have to restore some of these places. I mentioned places which, I think, aggregated in annual salaries $11,000 or $12,000. But time has demonstrated and the experience of the House has shown that, of those places, the only ones which it has been necessary to restore are these two messengers or janitors to the reporters of debates and the stenographers to committees. So that, instead of this appropriation being evidence of our having made a mistake at that time, it shows that we knew exactly what we were talking about and what we were doing, and the fact that we have not restored any of the other places that we thought we might have to restore shows that the original plan of the committee was well thought out and has worked properly in practice.

Oh, the gentleman from Illinois [Mr. MANN] can find mistakes made by employees of the House, but the employees of the Sixty-second Congress have had no monopoly in such mistakes. He, with his vivid memory, can find many cases where employees of the House in recent years, in previous Congresses, have made errors and mistakes which have been costly. I recall that the very first bill which was passed by this Congress, after this session began, was a bill to correct a mistake made by seasoned and experienced Republican employees of the former Congress, who had made such an error in enrolling a bill that we were compelled to pass a measure correcting a mistake amounting to several hundred thousand dollars in an appropriation. I would not hold that against them, and it was not evidence that we did not have sufficient employees in a former Congress. It was evidence simply of the frailty of human nature and of the fact that the class of men who become employees of this House can not be expected to do everything with the expertness and exactness with which such duties would be performed if left entirely to the gentleman from Illinois. [Applause on the Democratic side.]

Mr. MANN. Mr. Chairman, the gentleman is mistaken, in the first place, in stating that these are the only places which have

been restored. I am not complaining about the employees of the House on account of the mistakes which they have made, because a number of them are overworked. I did feel like complaining on last Saturday—although I do not now—when I desired to get a copy of the Indian appropriation bill from the document room and found it locked up at 1 o'clock, although it is supposed to remain open until at least 5 o'clock; and then when I found the Hall of the House locked, so that I could not get into my desk—merely because the Democratic Members of the House had gone on a trip to visit Mr. Wilson, and the employees assumed that Republicans did not work, when the fact is that Republicans do a large share of the work of this House.

Mr. FITZGERALD. That was a holiday.

Mr. SHARP. I suggest to the gentleman that we have not very often had the opportunity to go to see a Democratic President, and we went to see the next President. [Applause on the Democratic side.]

Mr. MANN. The mere fact that the gentleman from New York [Mr. FITZGERALD] went home or some other place does not constitute a holiday, under the precedents of the House.

Mr. FITZGERALD. I did not go away for the purpose of going home. I went to visit the next President.

Mr. MANN. I said "home or some other place." I dare say the gentleman did go home. Did not the gentleman go home?

Mr. FITZGERALD. Oh, yes; and I was glad to go home.

Mr. MANN. I am glad to have the gentleman go home once in a while. It will do him good.

Mr. FITZGERALD. The Democratic Members of the House had hoped that their Republican colleagues would take advantage of that opportunity to visit the White House, where they have not been going very much lately.

Mr. MANN. If the Republican Members of the House took advantage of the opportunity to do nothing every time the Democratic Members were on a loaf, we would have hard work getting through the business of this House.

Now, I want to say further that, in my judgment, before this session of Congress closes the expenses of this session of Congress, so far as the House of Representatives are concerned, will be proved to be greater than the expenses of any other session of Congress ever held in the history of the Government.

Mr. FOWLER. Mr. Chairman, my colleague from Illinois [Mr. MANN] charges the Democrats of the House with being "loafers." I deny that proposition. The Democrats, as well as the Republicans, have been in session here continuously in this House 13 months out of the last 16 for the purpose of discharging their congressional duties.

Mr. MOORE of Pennsylvania. Will the gentleman yield?

The CHAIRMAN. Does the gentleman from Illinois yield to the gentleman from Pennsylvania?

Mr. FOWLER. Not now.

The CHAIRMAN. The gentleman declines to yield.

Mr. FOWLER. Many of the Democrats in this House have been in attendance here as many days as the gentleman from Illinois [Mr. MANN] has. I remember that a short time ago he took a vacation of some two or three weeks and was away from this Hall continuously during that time.

Mr. FINLEY. Will the gentleman yield?

Mr. FOWLER. Yes.

Mr. FINLEY. That was just after the Chicago convention, was it not?

Mr. FOWLER. No; it was before the Chicago convention, during the Chicago convention, and after the Chicago convention, as I remember.

Mr. MANN. Mr. Chairman, will the gentleman yield?

Mr. FOWLER. He was absent during a much longer time than the Chicago convention.

Mr. MANN. Will the gentleman yield?

Mr. FOWLER. I desire to yield first to my distinguished friend from Pennsylvania [Mr. MOORE], and then I will be glad to yield to my colleague.

Mr. MANN. Unless he yields now I do not care to have him yield at all. I wish to ask the gentleman if he was referring to me. If he was not, I do not desire him to yield.

Mr. FOWLER. I will yield to the gentleman from Illinois.

Mr. MANN. Was the gentleman referring to me on the question of absence?

Mr. FOWLER. I was.

Mr. MANN. Then the statement of the gentleman is entirely erroneous.

Mr. FOWLER. Mr. Chairman, I am not mistaken about my statement. The record of this House will show the absence of the gentleman, and the reason why it will show his absence is because it will show that he was not occupying the floor of the House at any time during that period. Every day he is here the gentleman is "It," so far as the other side of this House is concerned. [Laughter.] I will permit the RECORD to speak as to the truth of my statement. Now I yield to the gentleman from Pennsylvania [Mr. MOORE].

Mr. MOORE of Pennsylvania. The gentleman from Illinois said yesterday that nobody read the RECORD. Does not the gentleman think that is the worst possible reflection upon the gentleman from Illinois?

Mr. FOWLER. I do not; because of the fact that it is left to gentlemen to read the RECORD or not, as they see fit. Those who are here in attendance do not need to read the RECORD, so far as the House proceedings are concerned, because they ought to be conversant with every subject discussed. It may be necessary for Members to read the proceedings of the Senate in order to be properly informed.

Mr. MOORE of Pennsylvania. Will the gentleman allow me to put the question I wanted to propound a moment ago?

Mr. FOWLER. Yes; I yield.

Mr. MOORE of Pennsylvania. The gentleman said the Democratic Party was reflected upon by the gentleman from Illinois [Mr. MANN]. The gentleman from Illinois [Mr. FOWLER] resented the imputation and said that the Democratic Party could not be charged with a lack of industry. That is correct, is it not?

Mr. FOWLER. Yes; in substance.

Mr. MOORE of Pennsylvania. Had the gentleman special reference to the adaptability of the Democratic Party in securing appropriations?

Mr. FOWLER. My reference was to the continuous attendance here, not only of Democrats, but of Republicans. I am not making a charge against Republicans for their absence.

Mr. MOORE of Pennsylvania. The gentleman does not get the drift of my question.

Mr. FOWLER. I am objecting to the statement made by my colleague from Illinois [Mr. MANN].

The CHAIRMAN. The time of the gentleman from Illinois [Mr. FOWLER] has expired.

Mr. MANN. I ask that my colleague have five minutes more.

Mr. FOWLER. I am not asking any extension of time, Mr. Chairman, but I will yield to the gentleman if my time is extended.

Mr. GUDGER. I object.

The CHAIRMAN. The Clerk will read.

Mr. MANN. Mr. Chairman, my colleague from Illinois [Mr. FOWLER] stated that I was absent from the House two or three weeks. If I had been absent from the House two or three weeks, I should consider that I had earned the right to be away, and except my colleague from Illinois [Mr. FOWLER] I do not think a single Member of the House would begrudge me the absence from the House, so far as I am personally concerned.

Mr. FOWLER rose.

Mr. MANN. I do not yield at this time. In a moment I will.

But the gentleman stated that I was absent two or three weeks during the time of the Chicago convention and following the convention. The statement is not correct. Any Member of the House could have discovered the fact by examining the RECORD, if he were absent, or, if he had been present, certainly he would remember the fact. I was here during the entire time of the Chicago convention, and have been here since with the exception of absence when the House was not transacting business. I went home before the Chicago convention for a week, and only regret, as far as I am personally concerned, that I could not have made it two or three weeks. It is not necessary for any Member of the House in making statements, which he ought to know about, to so enlarge them through an inflamed imagination that they become wholly lacking in fact. I now yield to the gentleman from Illinois.

Mr. FOWLER. Mr. Chairman, I do not want to have it understood that I am complaining at the absence of the gentleman from Illinois.

Mr. MANN. Oh, I have no doubt that that side would like to see me absent more.

Mr. FOWLER. No; Mr. Chairman, I think that every man in this House counts the day lost when he can not enjoy a joke, and the presence of the gentleman from Illinois here fills that idea completely, because he makes a joke of his side of the House by monopolizing the time and throwing into the teeth of the Members of that side of the House imputations that they are not intelligent enough to take charge of measures here and handle them as representatives of the people.

Mr. Chairman, I am not disposed at all to complain at the absence of the gentleman from Illinois, and would not have said anything with reference thereto if he had not charged the Democrats, for the purpose of making a false record, with being away from the House, loafing—an imputation of laziness and indifference—a condition which is deplorable if true.

Mr. MANN. Mr. Chairman, when I made the statement to which the gentleman refers and which he does not correctly quote, I counted the membership of the House present in the consideration of an appropriation bill carrying millions of dollars, and out of the 250 or 260 Democratic Members of this House I noticed on the floor at the time 2 more than 20—22—less than one-tenth of the responsible majority in the House present in the Chamber attending to the duties for which they ought to come here, for which they were elected, and for which they are sent. They were not attending to business here. I do not know whether they were loafing or not. They were not here.

Mr. FITZGERALD. Mr. Chairman, will the gentleman yield?

Mr. MANN. Certainly.

Mr. FITZGERALD. And this is in the consideration of what bill?

Mr. MANN. The general deficiency appropriation bill.

Mr. FITZGERALD. Oh, that is because of the confidence which the Members have in the committee over which I have the *honor to* preside.

Mr. BUCHANAN. I see about 32 here now, while there are but 18 on the gentleman's side.

Mr. MANN. What I said was true when I made the statement.

Mr. FOWLER. Mr. Chairman, I desire to reply to the statement of my colleague from Illinois, and repeat that when a man has spent 13 months out of 16 months here in continuous work of an arduous character I think he needs a rest, and I am not complaining of any man who asks for an opportunity to go home to see his family or to take a few days' vacation, but what I do object to is the charge of the gentleman from Illinois that such has been done on the Democratic side to the extent of "loafing" and to the extent of neglecting our duties. I do not charge to any Republican any dereliction of duty, and yet, Mr. Chairman, I assert that the attendance on this side of the House is as continuous and as great in number as it is on the other side of the House; and I say that without any reflection upon any gentleman on the other side of the House. I take it, Mr. Chairman, that it is unfair for a gentleman on the floor of this House to stand here and make a charge against Members who are coming here every day and working hard in the discharge of their legislative duties. It is unfair to single out an individual or a party in order to make that charge when, if the charge were true, it would apply to the other side equally as well.

Mr. Chairman, the gentleman refers to a condition that existed here some time ago when the deficiency bill was up for consideration.

Mr. MANN. Oh, I refer to it now.

Mr. FOWLER. It is well understood, Mr. Chairman, that men come here to work each day before eating their dinners. It is also well understood that some time during the daily session of the House Members go down to the restaurant for lunch in this building because it is necessary. This consumes only 20 or 30 minutes. The gentleman from Illinois does it the same as other gentlemen on either side of the House.

Mr. MOORE of Pennsylvania. Everybody's doing it. [Laughter.]

Mr. FOWLER. The gentleman knows that is the custom, and he knows that every man on the floor of the House is doing it. That is where many of the Members are at this time. Mr. Chairman, to try to make a point of absence of Democrats or Republicans while they are at lunch is unfair, and it is unmanly and uncalled for. I trust that my colleague from Illinois will never be guilty of such conduct again on the floor of this House.

Mr. ALLEN. Mr. Chairman, in order that the RECORD may show that I am present here this morning I move that all debate on this paragraph be now closed. [Laughter.]

Mr. GUDGER. Mr. Chairman, I make the point of order that there is no quorum present. I think the roll ought to be called as a reply to what the gentleman from Illinois said.

The CHAIRMAN. The gentleman from North Carolina makes the point of order that there is no quorum present. The Chair will count. [After counting.] Eighty-three Members are present, not a quorum. The Doorkeeper will close the doors, the Sergeant at Arms will notify absentees, and the Clerk will call the roll.

The Clerk called the roll, and the following Members failed to answer to their names:

Adair	Austin	Bates	Brantley
Ainey	Ayres	Bathrick	Broussard
Ames	Barchfeld	Beall, Tex.	Burgess
Andrus	Barnhart	Bell, Ga.	Burke, Pa.
Ansberry	Bartholdt	Booher	Butler
Anthony	Bartlett	Bradley	Byrnes, S. C.
Calder	Fornes	Lenroot	Ransdell, La.
Callaway	Foss	Levy	Reyburn
Campbell	Gardner, Mass.	Lewis	Riordan
Candler	Garner	Lindsay	Roberts, Nev.
Cantrill	Garrett	Linthicum	Robinson
Carter	George	Littlepage	Roddenbery
Cary	Gillett	Littleton	Rothermel
Clark, Fla.	Glass	Lobeck	Rucker, Mo.
Clayton	Goldfogle	Longworth	Sabath
Collier	Graham	Loud	Saunders
Cooper	Gregg, Pa.	McCall	Scully
Copley	Gregg, Tex.	McCoy	Sells
Covington	Griest	McCreary	Sheppard
Cox, Ohio	Guernsey	McGuire, Okla.	Sherwood
Crago	Hamill	McHenry	Simmons
Crumpacker	Hamilton, Mich.	McKenzie	Slemp
Currier	Hanna	McMorran	Small
Dalzell	Hardwick	Macon	Smith, J. M. C.
Danforth	Harris	Madden	Smith, Cal.
Daugherty	Harrison, N. Y.	Maher	Smith, N. Y.
Davenport	Hartman	Martin, S. Dak.	Speer
Davidson	Hayes	Matthews	Stack
Davis, W. Va.	Heald	Miller	Stephens, Miss.
De Forest	Helm	Mondell	Stephens, Tex.
Denver	Henry, Conn.	Moon, Pa.	Switzer
Dickson, Miss.	Henry, Tex.	Moon, Tenn.	Talbott, Md.
Dies	Higgins	Moore, Tex.	Taylor, Ala.
Difenderfer	Hinds	Morgan	Thistlewood
Dodds	Howland	Morse, Wis.	Thomas
Donohoe	Hughes, Ga.	Mott	Tilson
Draper	Hughes, N. J.	Murdock	Turnbull
Driscoll, M. E.	Hughes, W. Va.	Needham	Underhill
Dwight	Jackson	Nelson	Utter
Dyer	James	Nye	Vare
Edwards	Kahn	Oldfield	Vreeland
Ellerbe	Kindred	Olmsted	White
Esch	Kinkead, N. J.	Patten, N. Y.	Wilder
Estopinal	Kopp	Patton, Pa.	Wilson, Ill.
Fairchild	Lafean	Peters	Wilson, N. Y.
Faison	Langham	Porter	Wilson, Pa.
Ferris	Langley	Powers	Wood, N. J.
Fields	Lawrence	Prince	Woods, Iowa
Focht	Lee, Ga.	Pujo	Young, Tex.
Fordney	Legare	Randell, Tex.	

The SPEAKER. Call my name.

The name of Mr. CLARK of Missouri was called, and he answered "Present."

The committee rose; and the Speaker having resumed the chair, Mr. HAMMOND, Chairman of the Committee of the Whole House on the state of the Union, reported that that committee had had under consideration the bill H. R. 25970, the general deficiency bill, and finding itself without a quorum, he caused the roll to be called, and 189 Members responded, and he reported the names of the absentees to the House.

The SPEAKER. The Chairman of the Committee of the Whole House on the state of the Union reports that that committee finding itself without a quorum, he caused the roll to be called, and 189 Members responded, a quorum, and he reports the names of the absentees, which will be entered upon the Journal. The committee will resume its sitting.

The committee resumed its sitting.

The Clerk read as follows:

The unexpended balance of the sum appropriated for expert clerical and stenographic services, to be disbursed by the Clerk of the House on vouchers approved by Representative OSCAR W. UNDERWOOD, is reappropriated and made available for expenditure during the fiscal year 1913.

Mr. MANN. Mr. Chairman, I reserve a point of order on the item just read, or I will make the point of order. I see the gentleman from Alabama [Mr. UNDERWOOD] here. It is not customary, of course, to appropriate money to be expended under the direction of one Member of Congress. When this appropriation——

The CHAIRMAN. Will the gentleman from Illinois please state to what paragraph he refers?

Mr. MANN. To the paragraph contained in lines 14 to 19. When this appropriation was made in the last Congress it was made to be expended under the direction of the gentleman from Alabama [Mr. UNDERWOOD], knowing he was to be the chairman of the Committee on Ways and Means, and it was not known that there would be a special session of Congress; but it was known that the Democratic members of the Ways and Means Committee would naturally desire to make investigations of tariff questions, and there was no other way to provide the necessary money for it. Now, of course, the Committee on Accounts at any time has authority to allow to the Ways and Means Committee such expenditures of money or such additional aid as may be required. Now, does anyone think we ought to start the practice of appropriating money to be expended by the chairman of an existing committee as he pleases, when the House is organized and has control over the situation?

Mr. UNDERWOOD. Mr. Chairman, I am very glad the gentleman from Illinois has given me an opportunity to make a statement in regard to this item. Before this Congress met the Republican Congress which preceded it, knowing that there would be an effort on our part to take testimony and rewrite

the tariff laws, at my request and at the request of Members on this side of the House, put in one of the bills—I think it was in the general deficiency bill—a provision providing for $7,500 to be used by the Ways and Means Committee for clerical hire; that is, to be used by myself for clerical hire, but really intended for the use of the Ways and Means Committee for clerical hire in the investigation work preparatory on tariff bills. That $7,500, of course, was made available for me to expend as an individual and not as chairman of the Ways and Means Committee, because the Ways and Means Committee had not been organized, but the caucus in the preceding February had practically selected me as chairman of the Committee on Ways and Means. Now, I have taken that money. We have reported to this House six or seven important tariff bills. We have made more voluminous reports to this House on tariff bills than any Committee on Ways and Means has ever made to the House of Representatives. I have been very careful in the expenditure of the money. There is now about, I do not know the exact amount, but there is in the neighborhood of $1,500 still remaining of the $7,500 appropriated, but the appropriation only made the money available up to the 1st day of July. Therefore what remains is not available and can not be drawn out on my signature because the 1st day of July has passed. Now, when you consider the fact that it cost over $50,000 in extra clerical hire for the Ways and Means Committee to prepare the Payne tariff bill, that the Republican House paid to one of its regular employees in the Ways and Means Committee in the preparation of that bill in extra compensation $5,000, whereas I have not paid a single extra dollar of this amount that was allowed by the House to any man who was on the regular rolls of that committee, but a large portion was paid to Mr. Parsons, the expert whom I had employed at $400 a month, to aid the Ways and Means Committee. So that there is none of it that has been paid out except for clerical help that was actually needed. I have not asked this House for a single dollar for all the work that has been done by the Ways and Means Committee. The total amount that we have asked for in the way of furniture or extra stationery or extra work from the Accounts Committee during this entire Congress has been $96. I think that is just as good a showing as any Ways and Means Committee has ever made in the way of expenditure of money allowed to it. We have been as economical as we could. I want to state to the gentleman from Illinois the reason why we ask that this item be made in this way. When the money was appropriated and made available the Clerk of the House under the former appropriation drew the money from the Treasury and put it in the Clerk's office down here in the House. It is there now. It is not in the Treasury, it is in the Clerk's office and in the Clerk's hands. Possibly under those circumstances I could have gone on and checked until the full amount was used, but I did not want to do that.

Now, it is not there to the credit of the committee; it is not in the Treasury; and it is not available to anybody, if you continue this appropriation, except on my order. There is not a voucher in the hands of the Clerk except for clerk hire—for persons employed. Now, we could let the other $1,200 or $1,500 lapse but we have got other tariff work to pursue. I do not often call for extra clerical help, but occasionally I need it. I think before Congress adjourns I probably will need the balance of this $1,200. It is there in the Clerk's office. If I had wanted to use it I could have checked out before the 1st of July came, but as I did not have an immediate necessity for its use I left it there. Now, I think the Ways and Means Committee is asking very little of this House when we ask that we should have available the balance of this appropriation that was made two years ago to continue our clerical force, and if you want to convert it back into the Treasury you will have to provide for the Clerk to return the money to the Treasury, because it is not in the Treasury. To do that the only proper way to make it available is to authorize the expenditure of this unpaid balance. I am not asking any additional appropriation. This bill merely asks that I may be authorized during the balance of this session to expend this $1,200 or $1,500 that is in the Clerk's hands that was made available for the Ways and Means Committee's use two years ago. I think we will need that amount of money. If we do not need it, I certainly will not expend it, because I did not expend it when I did not need it and had the opportunity to expend it. And I can see no reason why it should not go on this bill and be made available.

Mr. FITZGERALD. I discussed this matter with the gentleman from Alabama [Mr. UNDERWOOD], and I think he overlooks this: I call his attention to the fact that this was an unusual method of providing for the expenditure of money, and this balance of $1,500, or whatever it may be, is still unexpended. And as the services that were likely to be required were more or less of a temporary character, and clerks might be employed for a short time, and then dropped and others picked up, the gentleman from Alabama thought that to continue the method that had been followed with the original appropriation would be much more convenient than to ask the Committee on Accounts from time to time for some little assistance when it was impossible to determine definitely how long the assistant might be required.

Mr. MANN. Mr. Chairman, the gentleman from Alabama [Mr. UNDERWOOD] seemed to think that I was making some question about his method of expenditure of the money, and saw fit, I think wholly unnecessarily, to explain how he expended it and how economically he had expended it. When a Republican House provided this appropriation they had confidence in the gentleman from Alabama making any expenditure with reasonable economy and making it fairly, and no one doubts the gentleman has entirely fulfilled the expectations of the Republican Congress when they made the appropriation available under his order.

That is not the question which I raised at all. I am not sure under what authority the Treasury Department has turned over this money to the Clerk as disbursing agent. There is no authority in the appropriation for that purpose. The appropriation provided that the money should be disbursed on vouchers approved by the gentleman from Alabama.

Mr. UNDERWOOD. But the gentleman overlooks the fact that the appropriation provided it should be disbursed by the Clerk on vouchers approved by me, and therefore the Clerk drew the money and put it in the vault.

Mr. MANN. Very well. But the gentleman made a mistake in assuming that he could have drawn this money out before the 1st of July, because he could not draw any of it out, except on vouchers approved by him, and he could not put in false vouchers, because that is not in his moral power.

Mr. UNDERWOOD. I meant that I might have been extravagant.

Mr. MANN. The gentleman might have expended it. But if the gentleman had been the kind of a man who would have expended it unnecessarily, it never would have been appropriated. The point here is whether it shall become the practice of the House, when the House is organized, that any committee can have a resolution presented to the Committee on Accounts and through the Committee on Accounts to the House, and whether with that power we shall still appropriate money to be expended by the chairman of a committee. I have been the chairman of a committee of Congress for a number of years. I often saw occasions where I thought I could profitably, in the interest of the public service, expend money. Yet I never thought that it would have been a desirable thing to have given the chairmen of committees the power to spend money directly on vouchers approved by them; and I do not think the gentleman from Alabama would disagree with me on that proposition at all. If it is understood that this kind of an item is not to be considered as a precedent, granting the appropriation of money to be expended wholly under the personal jurisdiction of Members of the House, after the House is organized, when the committees are organized, when the House has complete control over its contingent fund, out of which such expenditures ordinarily are paid and ought to be paid, I shall not insist on the point of order with that understanding. I am opposed to making precedents here to undertake to make appropriations, however controlled, simply by the personal membership of the House.

Mr. UNDERWOOD. If the gentleman from Illinois will allow me, I will say to him candidly that I agree with him. I think he is absolutely right in his statement that the House should not make appropriations for expenditures to be controlled under one man. It has already been explained how it happened that this appropriation was made available to me.

Mr. MANN. I think the appropriation in the first place was properly made because of the peculiar circumstances at that time.

Mr. UNDERWOOD. It does not make a precedent. If it was to ask for any new money that had not been drawn out of the Treasury and had not been made available, I would go to the Committee on Accounts.

Mr. MANN. The gentleman will admit it is making a precedent. The original appropriation was made because the House was not to be in session until the first of December. The Democrats had a majority in the Sixty-second Congress, not yet having their seats, and desired to have work done in reference to the tariff. The House in the Sixty-second Congress not being organized, and not expecting to be organized until December, there was no way of providing for payment of money out of the contingent fund and no way of providing that the com-

mittee should have control of it. And inasmuch as the gentleman from Alabama [Mr. UNDERWOOD] had been selected by a Democratic caucus as the future chairman of the Committee on Ways and Means, it was entirely proper to allow him to control the expenditure of the money. But of course that situation does not apply now.

Mr. UNDERWOOD. Well, the only thing wherein I say it does apply now is this: As to this particular money, it is in the hands of the Clerk of the House. It has got either to go back into the Treasury or be made available under the old law to my order. What I say is this: This does not establish a precedent. I object to a precedent being established as much as the gentleman from Illinois. I think we have been economical in the expenditure of this money.

Mr. MANN. I think the gentleman has been too economical. He has not given us enough information.

Mr. UNDERWOOD. We certainly have not been extravagant. But I will say to the gentleman that before the end of this session, and certainly before the end of the next session, we have got to send out here and there to get a man to do a little incidental work, and that money will be needed; and as I have been economical in the administration of the affairs of the committee and, as I say, more so than any other chairman that I know of, I think it is nothing more than right that we should have this appropriation—money already out of the Treasury—extended so that we can use it. But I do not desire to make any precedent, and rather than have the House think it is making a bad precedent I would prefer that the House should turn it down. But I think the money will be needed, and it will expedite the work of this Congress. The work in the Ways and Means Committee has not been partisan work. It has always been open to both sides of the House and open for individual Members to go there and get the information they desire.

Mr. MANN. Mr. Chairman, in a few days I shall undertake to test the sense of the House upon the proposition as to whether it is desirable to have information concerning the tariff collected—information which shall be available to all Members of the House and to the country—in connection with a Senate amendment to the sundry civil appropriation bill providing for the Tariff Board. In the meantime I shall not object to the appropriation for the benefit of the Democratic members of the Ways and Means Committee. I withdraw the point of order.

The CHAIRMAN. The Clerk will read.

Mr. PAYNE. Mr. Chairman, I move to strike out the last word. I have no objection to the appropriation being made—all the appropriation that is necessary in the opinion of the gentleman from Alabama—for carrying on the tariff work and getting information. They need it.

But, Mr. Chairman, I would be glad if what the gentleman states were true, in fact, that their work has been open to all the members of the committee, that the minority members had some chance of getting the information which the chairman claims he has gathered together that we may know the sources of that information, from whom it comes, whether it is reliable, what is the nature of it, that we might have a chance to meet the gentlemen who gave that information, if there are any such people; that we might know all about it.

Mr. UNDERWOOD. I will state to the gentleman——

Mr. PAYNE. In a moment. The gentleman has spoken in contrast of the amount expended by the last Republican committee in formulating a tariff bill which covered the whole tariff question, and he says that he thinks we expended some $50,000. I never had the curiosity to know what the sum was. I did examine the individual bills and vouchers, and saw to it that they were proper at the time they were certified by me. But that committee did go into the subject. The committee did examine witnesses. That committee did see to it that the minority members of the committee were present during all those examinations, and the committee did not hide and cover up the results of those examinations. The committee published every day hearings of the day before, every word that was said, and, when we closed, our mailing list was something over 2,500 copies, which were sent out daily to the people of the country, with the invitation to them to come in and correct any misstatements that had been made. We were securing information, and we got information.

The gentleman has spoken of the amount of work that he did. Well, I will not say anything about that. I will simply refer the gentleman to the statement of the present Speaker of this House as to the amount of work done by the committee in 1908 and 1909—work which, he says, shortened the lives, no doubt, of every member of the committee, for a vast amount of work was done during the 24 hours of each day during the period of time that that matter was under consideration and investigation by the committee.

Now, I am making these remarks only because I think my friend from Alabama [Mr. UNDERWOOD] was led into an unfair statement of contrast about the work done and the amount of expenditures, in consideration of the information that was obtained by the committee in 1908 and the amount of information which he has procured for his committee during the past year.

Mr. UNDERWOOD. Mr. Chairman, I am not reflecting on the gentleman from New York [Mr. PAYNE] or on his management of the committee. When I say his committee expended over $50,000 in preparing the last tariff bill, I do not say that they expended it unwisely. I do not say that the amounts he paid for services were more than those services were worth, but I simply call attention to the fact that the gentleman paid in extra compensation to his regular employees more than we have asked for all the work we have done. That is not intended as a criticism, but it is intended as a justification of the amount of our expenditures to show to the House.

Now, as to the information. every bit of information that we have gathered we have published, and it is in reports or on record in the files of this House. The sources of information are noted in the reports. We have had no hearings from the manufacturers, because the manufacturers of this country had appeared before the gentleman's committee only 18 months before we went to work, and had stated their whole case. I stated to them in an open circular, and to many of them personally, that if they had anything new to say by which they intended to supplement their statements when they appeared before the committee presided over by the gentleman from New York [Mr. PAYNE] we would give them hearings. But none of them could show me that they had anything more to add to what they had already stated, and I did not care to take up the time of the committee and the time of the House.

Now, outside of the interested manufacturers, we had no applications for hearings. Most of our information that we gathered, that was not in the hearings that had previously been taken by the committee, came from the department. We needed the clerks to tabulate results. Some of it came from the Tariff Board, for which we spent $250,000 a year to accumulate these results.

Now, when I say that the additional pay for clerical work by the Ways and Means Committee in this Congress to bring up these tariff bills amounted to only about $6,000, and was hardly one-tenth of what the previous Ways and Means Committees have paid for the same class of work, I do not mean to say it as reflecting on the committee presided over by the gentleman from New York [Mr. PAYNE] or to criticize his work, because I am here to testify that he worked strenuously, earnestly, and gave his best endeavors to his committee and to the House. The only point in reference to which I have to criticize the gentleman from New York [Mr. PAYNE] about his tariff work is that I do not believe in the theory on which he produced his results.

I would not ask for the continuation of this appropriation if I did not think it was for the benefit of the House and necessary for the House that we should have a few hundred dollars more in order to finish up the tariff work we have on hand.

MESSAGE FROM THE SENATE.

The committee informally rose; and Mr. JOHNSON of Kentucky having taken the chair as Speaker pro tempore, a message from the Senate, by Mr. Crockett, one of its clerks, announced that the Senate had passed joint resolution of the following title, in which the concurrence of the House of Representatives was requested:

S. J. Res. 125. Joint resolution making appropriation for checking the ravages of the army worm.

The message also announced that the Senate had insisted upon its amendments to the bill (H. R. 24450) making appropriations for the support of the Military Academy for the fiscal year ending June 30, 1913, and for other purposes, disagreed to by the House of Representatives, had agreed to the conference asked by the House on the disagreeing votes of the two Houses thereon, and had appointed Mr. DU PONT, Mr. WARREN, and Mr. JOHNSTON of Alabama as the conferees on the part of the Senate.

The message also announced that the Senate had passed with amendments bill of the following title, in which the concurrence of the House of Representatives was requested:

H. R. 21214. An act to extend the special excise tax now levied with respect to doing business by corporations, to persons, and to provide revenue for the Government by levying a special excise tax with respect to doing business by individuals and copartnerships.

GENERAL DEFICIENCY APPROPRIATION BILL.

The committee resumed its session.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

JUDGMENTS IN INDIAN DEPREDATION CLAIMS.

For payment of judgments rendered by the Court of Claims in Indian depredation cases, certified to Congress in House Document No. 776, at its present session, $39,971; said judgments to be paid after the deductions required to be made under the provisions of section 6 of the act approved March 3, 1891, entitled "An act to provide for the adjustment and payment of claims arising from Indian depredations," shall have been ascertained and duly certified by the Secretary of the Interior to the Secretary of the Treasury, which certification shall be made as soon as practicable after the passage of this act, and such deductions shall be made according to the discretion of the Secretary of the Interior, having due regard to the educational and other necessary requirements of the tribe or tribes affected; and the amounts paid shall be reimbursed to the United States at such times and in such proportions as the Secretary of the Interior may decide to be for the interests of the Indian Service: *Provided*, That no one of said judgments provided in this paragraph shall be paid until the Attorney General shall have certified to the Secretary of the Treasury that there exists no grounds sufficient, in his opinion, to support a motion for a new trial or an appeal of said cause.

Mr. BURKE of South Dakota. Mr. Chairman, I offer the amendment which I send to the Clerk's desk.

The CHAIRMAN. The gentleman from South Dakota offers an amendment, which the Clerk will report.

The Clerk read as follows:

Page 44, after line 15, insert a new paragraph, as follows:

"That there is hereby appropriated, out of any money in the Treasury not otherwise appropriated, the sum of $3,305,257.19, being the net amount of a judgment rendered by the Court of Claims in favor of the Confederated Bands of Ute Indians, dated February 13, 1911, exclusive of the amount awarded for attorney's fee, pursuant to the provisions of the jurisdictional act approved March 3, 1909, the same to bear interest at the rate of 4 per cent per annum from and after the date of said judgment, the amount thereof and the interest accruing thereon to be deposited in the Treasury to the credit of said Indians and be held as a trust fund in accordance with the act of June 15, 1880, being "An act to accept and ratify the agreement submitted by the Confederated Bands of Ute Indians in Colorado for the sale of their reservation in said State, and for other purposes."

Mr. FITZGERALD. Mr. Chairman, I raise the point of order on the amendment.

Mr. BURKE of South Dakota. Mr. Chairman, I do not think the gentleman will contend that this is subject to a point of order.

Mr. FITZGERALD. I do very seriously contend that it is subject to a point of order.

Mr. BURKE of South Dakota. Mr. Chairman, I understand the point of order is reserved. I do not believe the amendment is subject to a point of order, and am sure the gentleman from New York will not make it when he has had an opportunity to examine it.

It has been the custom of the House for many years to provide appropriations in deficiency appropriation bills to pay judgments of the Court of Claims. The amendment which I have offered proposes to pay a judgment of the Court of Claims from which no appeal has been taken, and the time for appeal has expired.

Yesterday, in the general debate, I interrogated the distinguished gentleman from New York [Mr. FITZGERALD], the chairman of the Committee on Appropriations, as to why this item was not included in the pending bill, and he stated very frankly that it ought to be upon this bill if it was going to be appropriated for at all. I want to call attention to the further statement that he made in response to an inquiry by the gentleman from Kentucky [Mr. JOHNSON] with reference to an item in the bill that provided an appropriation to pay certain judgments. He said:

Mr. Chairman, I did not look particularly to see what the judgments were for. They were final judgments of the court, from which no appeal had been taken, and from which none could be taken. It is customary for Congress to pay judgments of the courts after the time for appeal has expired.

Mr. Chairman, this is just such a judgment, a final judgment, of the Court of Claims. No appeal had been filed, and the time for appeal has expired; therefore no appeal can be taken. If it is not in order to provide for the payment of such a judgment in this bill, then I do not know on what bill it would be in order to provide for it. It was stated in the general debate that one of the reasons why it was not provided for in this bill was that it had been added to the Indian appropriation bill as an amendment at the other end of the Capitol.

Certainly it does not belong on the Indian appropriation bill, which is a bill making appropriations for the current expenses of the Indian Bureau; and an amendment proposing to appropriate $3,500,000 to pay a judgment of the Court of Claims would not be in order if offered to the Indian appropriation bill in the House, for it is a deficiency and would only be in order in a deficiency bill.

If the Senate amendment to the Indian appropriation bill is concurred in, it will increase the amount carried by the bill the amount of this judgment, thus seeming to increase the appropriations for the Indian Bureau unfairly, because that item should not and can not be charged to the annual expenditures of the Indian Bureau. Therefore it ought not to be in the Indian appropriation bill, but should be in this or some other bill reported by the Committee on Appropriations. The gentleman from New York [Mr. FITZGERALD] said yesterday: "It is customary for Congress to pay judgments of the courts after the time for appeal has expired."

I am going to briefly refer to the basis for this judgment, and will first state that in 1868 the Ute Indians occupied a very large territory in what is now the State of Colorado and, I think, perhaps extending into adjoining States. A treaty was entered into with the Indians, and article 2 of the treaty which was made in 1868 ceded all of the lands that the Indians claimed, with the exception of about 15,000,000 acres.

Article 2 of the treaty reads as follows:

Said Tabegauche Band of Utah Indians hereby cede, convey, and relinquish all of their claims, right, title, and interest in any, to any, and all lands within the territory of the United States, wherever situated, excepting that which is included within the following boundaries, which are hereby reserved as their hunting grounds.

Then follows a description, by metes and bounds, of the lands reserved, which are set apart for the absolute and undisturbed use and occupation of the Ute Indians, comprising 14,784,000 acres of land.

By treaty dated September 13, 1873, the Indians ceded to the United States 3,059,200 acres. That treaty was ratified by act of April 29, 1874. There is no contention with reference to the payment for these lands, and it does not enter into the questions involved in the judgment that my amendment proposes to pay.

By a treaty approved June 5, 1880, the Indians ceded the balance of their reservation to the United States. In other words, they ceded something over 11,000,000 acres to the United States and relinquished all their right, title, and interest therein, with the exception of such lands as were allotted them in severalty.

The individual allotments were made, and by the terms of the treaty the surplus lands were to be disposed of by the United States at the same price and on the same terms as other lands of like character, and it was expressly provided that none of the lands should be liable to entry and settlement under the provisions of the homestead law, but sold for cash and the proceeds received from the sale to be employed for reimbursing the United States for all sums paid out or set apart by the Government for the benefit of the Indians, the residue to be deposited in the Treasury to their credit. In other words, the Indians ceded their right to 11,000,000 acres of land and the United States agreed to sell it and account to the Indians for the proceeds received from the sale.

There had been sold up to and including June 30, 1908, 1,310,686.38 acres, for the sum of $2,204,694.71.

The Government from time to time has created and established a number of forest and other reservations, covering the lands ceded by the Indians, aggregating 3,199,258 acres. That is, the Government instead of selling this amount of land, as the treaty of 1880 required, appropriated it to its own use and made forest reservations of it.

By a proviso incorporated in the Indian appropriation act of March 3, 1909, jurisdiction was conferred upon the Court of Claims to hear, determine, and render final judgment on the claims and rights of the Indians, including the value of all lands ceded by the Indians which had been set apart and reserved from the public lands as reservations, or for other public uses under existing laws and proclamations of the President, as if disposed of under the public-land laws of the United States.

Right at that point I want to again call the attention of the committee to this situation: This act of 1880, by which the Indians ceded this 11,000,000 acres of land to the United States, provided in express terms that the lands should be sold as other public lands were to be sold, and the proceeds were to go to the Indians, except the United States was to be reimbursed for all sums paid out or set apart for the benefit of the Indians. The jurisdictional act of March 3, 1909, directed the court to "except such sums as have been paid for a specific purpose and an adequate consideration."

The Government did sell, as a matter of fact, and received pay for something over $2,000,000 worth of land—to be exact $2,204,694.71—and withdrew from public sale large areas and incorporated them in forest and other reservations, the amount so withdrawn being 3,199,258 acres.

Mr. Chairman, the jurisdictional act of March 3, 1909, authorized and directed the court to ascertain how many acres of land had been appropriated by the Government, determine its value, and to render a judgment against the United States for whatever that amount might be.

Mr. MARTIN of Colorado. Mr. Chairman, will the gentleman yield?

Mr. BURKE of South Dakota. Certainly.

Mr. MARTIN of Colorado. Will the gentleman kindly restate the amount received by the Government for the sale of these ceded lands?

Mr. BURKE of South Dakota. I shall do it in a moment.

Mr. MARTIN of Colorado. I want to base a question upon it.

Mr. BURKE of South Dakota. The amount of land that had been sold up to and including June 30, 1908, was 1,310,686.36 acres, and it was sold for the sum of $2,204,694.71.

Mr. MARTIN of Colorado. What part of that sum has been paid to the use of the Indians?

Mr. BURKE of South Dakota. I will say this in answer to that question, that no part of it has been directly paid, as I understand it, but certain moneys have been expended from time to time for the benefit of the Indians, and in the jurisdictional act the court was directed to ascertain how much money had been received from the sale of ceded lands, also the value of lands that the Government had appropriated for forest reservations, and then was to set off against any amount they might find was due such moneys as had been paid or expended for the Indians as gratuities or otherwise, except in cases where there had been an adequate consideration.

Mr. MARTIN of Colorado. The reason I asked the question was that it is my understanding, although that was questioned yesterday by the gentleman from New York, that a large part of the judgment was for the selling price of the ceded lands sold by the Government, but I want to further add that whether that be true or not it does not affect the validity and merit of the claim.

Mr. BURKE of South Dakota. That is not correct in any event. The court found that 3,199,258 acres had been included within forest or other reservations, and that the Indians should be paid therefor at $1.25 per acre, and found the amount that was owing from the United States to the Indians for those lands to be $3,999,092.50.

Mr. RUCKER of Colorado. Mr. Chairman, will the gentleman yield?

Mr. BURKE of South Dakota. Certainly.

Mr. RUCKER of Colorado. As I understood the gentleman from New York [Mr. FITZGERALD] yesterday, he makes a distinction between what has been reserved and put into forest reservations against what has been sold by the Government. I understand the gentleman makes no distinction about that, because the price has been fixed and is just the same as if the Government had sold, inasmuch as it had taken over into the forest reservations the 3,000,000 acres of land at so much per acre.

Mr. BURKE of South Dakota. Mr. Chairman, I will state to the gentleman that the average price received for the lands that were sold was $1.68 an acre. The court found that as to the lands that the United States had withdrawn and had appropriated for its own use for forest reservations it should pay to the Indians $1.25 per acre, so they do not get quite as much for the lands taken by the Government as they get for the lands that the Government sold for the benefit of the Indians. But in the opinion of the court it is stated that the lands that had been disposed of are probably the better lands, and that in these forest reservations perhaps some of the land is of little value, and therefore the Indians would be getting a fair and adequate price if paid $1.25 per acre, and the court fixed that price, and in making a finding as to the value of the land only did what Congress by the jurisdictional act expressly directed.

I would like to read from the opinion of the court as reported in volume 45, Court of Claims Reports, page 440. I am reading from the opinion on pages 467–8:

> The jurisdictional act directs this court to hear, determine, and render final judgment on the claims and rights of the Utes under the agreement of 1880, including the value of all lands "which have been set apart and reserved from the public lands or public reservations or for public uses under existing laws and proclamations of the President, as if disposed of under the public-land laws of the United States, as provided by said agreement." We are told to render judgment for the value of these lands "as if disposed of under the public-land laws of the United States, as provided by said agreement." The agreement referred to contained directions as to the manner in which these lands were to be disposed of, i. e., they were to be surveyed, were not to be liable to entry and settlement under the provisions of the homestead law, but were to be sold for cash only. Hence the direction that we are to render judgment for the value of these lands as if disposed of "as provided by said agreement" evidently means that we are to regard them as having been sold for cash at the date of entry of judgment, and this sum is to be placed to the credit of the plaintiffs.

The amount allowed by the court for the lands appropriated by the United States, namely, $3,999,092.50, together with the $2,204,000 received from the sale of ceded lands from 1880 up to 1908, aggregates $6,203,767.21. The jurisdictional act directed the court to ascertain all moneys that had been paid to the Indians, whether as gratuities or otherwise, except such sums as had been paid for a specific purpose and an adequate consideration, and set off the amount against any sum found due the Indians. The court found there had been paid to the Indians the sum of $2,795,155.81, which sum, when deducted from the amount found to be due, left a balance of $3,408,611.40, for which judgment was entered.

At this point I desire to call attention to the fact that there are only 2,000 Indians of the Ute Tribes, and that in addition to the amount that they are to receive by the judgment there are 7,569,144.38 acres of land yet to be disposed of, and the proceeds will have to be paid to the Indians. It transpires that, so far as these Indians are concerned, when they made the treaty of 1868 and again in 1880 they made a very good bargain with the United States, and probably the best bargain that any tribe of Indians ever made with the Government; but that does not change the fact that it is the moral duty of the Government to pay its obligations to them and to other Indians, and whatever we owe them under solemn treaties and agreements we ought to pay.

The court, in February, 1911, set aside the judgment and rendered a new judgment, finding that after July 1, 1908, there had been received $207,456.21 for lands disposed of after that time and that the Government had expended $939,835.65 on account of the Indians, leaving a balance of $107,619.65 to the credit of the Indians, which was added to the judgment rendered originally when this case was determined in 1910 and a final judgment of $3,516,231.05 was entered, which amount is due the Indians, less what has been paid to the attorneys who succeeded in getting through Congress the jurisdictional act, a service that consisted almost entirely of lobbying in the House and Senate, $210,973.86, and they have received their money.

Mr. CULLOP. Mr. Chairman, will the gentleman yield?

Mr. BURKE of South Dakota. I yield.

Mr. CULLOP. When was this last judgment rendered? What was the date of it?

Mr. BURKE of South Dakota. The last judgment was rendered on February 13, 1911, too late to be certified as an item to be appropriated for in the last Congress.

Mr. FITZGERALD. Why was that too late?

Mr. BURKE of South Dakota. There was time for an appeal. In other words, the Government was entitled to some time within which to take an appeal. I do not know just what the time would be, but until the time for appeal had expired the judgment would not be certified to Congress by the Secretary of the Treasury; and as the judgment was entered February 11, 1911, and Congress adjourned March 4 following, I am certain it will be conceded that the time for taking an appeal had not expired.

Mr. CULLOP. There has never been an appropriation made to pay that judgment?

Mr. BURKE of South Dakota. Never.

Mr. CULLOP. How did these lawyers get their money if there was no appropriation?

Mr. BURKE of South Dakota. By their shrewdness in putting into the jurisdictional act a provision that enabled them to obtain their money just as soon as the judgment was rendered; and they have been paid.

Mr. CULLOP. But if no money was appropriated to pay this judgment, who had authority to pay them out of the Treasury?

Mr. BURKE of South Dakota. I am only stating to the gentleman what the facts are.

For the information of the gentleman from Indiana I will say that the jurisdictional act of March 3, 1909, relative to the compensation to the attorneys, contains the following language: "Said compensation shall be paid to such attorney by the Secretary of the Treasury out of any money in the Treasury arising from the sale of said ceded lands or from the proceeds of said judgment."

At that time of the ceded lands there had been sold 1,310,686.36 acres for the sum of $2,204,694.71, and under the act of 1880 this money belonged to the Indians, and they had this amount due them less any moneys that may have been expended on their account, and therefore I assume that the disbursing officer of the Treasury Department considered he was authorized to pay the attorneys, and I do not suppose he could have done so unless the comptroller so decided.

Mr. CULLOP. What disbursing officer paid this?

Mr. BURKE of South Dakota. It was paid through the Treasury Department. I am unable to give the details, except as I have stated.

Mr. CULLOP. Certainly there is no authority to pay it if there had been no money appropriated for that purpose, and there would surely be a liability on the part of the officer who paid it to refund it back to the Government. I do not understand that there is any authority——

Mr. BURKE of South Dakota. I did not yield for a speech. If I can have plenty of time I will gladly yield. I think I have already stated upon what authority the attorneys were paid.

Mr. MARTIN of Colorado. Will the gentleman yield before he gets too far away from the question of this judgment? Was it not provided for in the last appropriation bill, in the last Congress? I wish to say it is my recollection, and I had occasion to inquire into that, that there was considerable time allowed in which to take an appeal from that judgment, and I believe, if the gentleman will inquire and wishes to insert the matter in his remarks, that he will find that there were two or three months in which to take an appeal from that judgment.

Mr. BURKE of South Dakota. I will say to the gentleman it was not certified to Congress until January 6, 1912, and the item is incorporated in House Document 410, Sixty-second Congress, second session.

The letter from the Secretary of the Treasury submitting the estimate is as follows:

TREASURY DEPARTMENT,
OFFICE OF THE SECRETARY,
Washington, January 6, 1912.

The SPEAKER OF THE HOUSE OF REPRESENTATIVES.

SIR: I have the honor to transmit herewith, for the consideration of Congress, copy of a communication from the Secretary of the Interior, of this date, submitting an estimate of appropriation for the payment of a judgment of the Court of Claims in favor of the Confederated Bands of Ute Indians, dated February 13, 1911, $3,305,257.19.

Respectfully,

FRANKLIN MACVEAGH, *Secretary.*

Accompanying the estimate is a communication from the Secretary of the Interior, which is as follows:

DEPARTMENT OF THE INTERIOR,
Washington, January 6, 1912.

The SECRETARY OF THE TREASURY.

SIR: I have the honor to transmit herewith an estimate for the appropriation of the net amount of a judgment of the Court of Claims in favor of the Ute Indians, dated February 13, 1911, aggregating the sum of $3,305,257.19, for incorporation in the general deficiency bill.

The estimate has been submitted to the President and has received his approval. It is forwarded, through your department, for the appropriate action of the Congress.

Very respectfully, WALTER L. FISHER, *Secretary.*

I want to say, for the information of the House, that the court took into consideration all of the items that had been expended on account of the Indians and found that there should be a set-off of $2,795,155, and that amount was charged to the Indians. The court did not set off certain other amounts that the defendants claimed ought to be allowed, on the ground that there was an adequate consideration in the treaties under which these expenditures were made and the jurisdictional act so directed. In the opinion the court said:

Congress from time to time made appropriations of money to the plaintiffs, which in terms were made in pursuance of the treaties of 1863 and 1868. (13 Stats., 560; 17 id., 457.) After such treaty stipulations with the plaintiffs and after such recognition of their validity for more than 40 years, we do not think the defendants can successfully set up the claim that these payments were made without adequate consideration. Certainly no such claim would ever be made against any people other than Indians. We do not think, therefore, that the plaintiffs are properly chargeable with any payments made to them under and pursuant to the treaties of 1863 and 1868. We are also asked to charge the plaintiffs with $70,064.78, appropriated by act of Congress May 27, 1902 (32 Stats., 263), to be paid to the Uinta and White River Utes. This appears to relate to an entirely different transaction than the one under consideration, * * * and said sum of $70,064.78 was appropriated to be paid said Indians for relinquishing their title to such unallotted lands, the same to be reimbursed in the manner before stated.

I have examined the treaties, and I find that the court could not, in view of the language in the jurisdictional act, do different than it did in refusing to charge these amounts against the Indians. On the other hand, the plaintiffs contended that they were entitled to compound interest from 1880 and claimed nearly two million and a half dollars of interest, which the court disallowed. It not only disallowed the compound interest, but it disallowed simple interest. The Court of Claims, under date of February 13, 1911, under the heading "Conclusion of law," stated as follows:

Upon the previous findings of fact, and including the above supplemental finding, the former judgment is set aside, and the court now decides as a conclusion of law that the plaintiffs are entitled to judgment against the United States in the sum of $3,516,231.05 as and for the sum due to them up to and including June 30, 1910, out of which judgment, as provided by the jurisdictional act and the stipulation between claimants' attorneys, there shall be paid to Josiah M. Vale, Esq., attorney of record in said cause, for himself and all other attorneys and counsel interested in the prosecution of said cause before committees of Congress and this court 6 per cent thereof, amounting in the aggregate to $210,973.86.

Gentlemen, the attorneys have been paid, and unless Congress makes an appropriation to pay this judgment in the near future I apprehend that these same gentlemen will probably get a contract with the Indians for the purpose of collecting the judgment; and when Congress makes the appropriation they will get $210,000 more, and therefore we ought to provide for its payment now.

Mr. FITZGERALD. Will the gentleman yield for a question?

Mr. BURKE of South Dakota. Certainly.

Mr. FITZGERALD. Does the gentleman think the Secretary of the Interior will approve any such contract as that, which is necessary in order to make it valid?

Mr. BURKE of South Dakota. I will say to the gentleman there is no approved contract for the fees which were allowed in this case. They were allowed by the court.

Mr. FITZGERALD. The law specifically provides for such allowance, which is very important. If it had not been for that provision of the statute no contract made between the attorneys and the Indians for their services could have been enforced unless it had been approved by the Secretary of the Interior.

Mr. BURKE of South Dakota. I want to call the gentleman's attention to the fact that those gentlemen took care of that when the jurisdictional act was prepared and incorporated in the Indian appropriation bill, and they left it to the court to determine what they should receive.

Mr. MANN. Will the gentleman yield?

Mr. BURKE of South Dakota. Certainly.

Mr. MANN. Is it not a fact the court did not determine the matter, but took the agreement between the counsel as to what the fees should be?

Mr. BURKE of South Dakota. I think not, because the jurisdictional act of March 3, 1909, provides:

In rendering judgment herein the court shall fix upon a quantum meruit and set apart a just and reasonable compensation to the attorneys on behalf of plaintiffs who have rendered actual service in perfecting said claim before the committees of Congress and in conducting the said cause before the courts.

Mr. MANN. See what the judgment says.

Mr. BURKE of South Dakota. The court says:

The jurisdictional act provides that such fees are to be allowed for services before committees of Congress in the matter of this claim as well as for services before the courts.

It appears that the principal services rendered in this matter were before committees in Congress. Such services can hardly be allowed for on the basis of the professional services of a lawyer, and this fact renders it somewhat difficult to determine the amount properly to be fixed. The fact also should be noted that there was no appeal from the decision of this court in this suit, which would necessarily involve considerably more labor and expense; neither were any witnesses examined on either side. In fact, the whole case was tried upon the record as made up by official reports and public documents. The jurisdictional act by which the suit comes to this court provides that upon the rendition of judgment herein the payment to the claimants of the annuity of $50,000 per annum shall cease, and the fund of $1,250,000 set apart for them in the Treasury shall no longer exist as a trust fund for their benefit. This fact materially reduces the actual benefit which the claimants are to receive by virtue of the judgment.

I want to call attention to the fact that these Indians had to their credit, or what amounted to their credit, $1,250,000, about which there was no dispute, and the jurisdictional act provided that that should be included in the judgment, and so it did become a part of the judgment, and the attorneys got 6 per cent on the amount of $1,250,000, which was in the Treasury, and about which there was no contention. In other words, the attorneys have received $75,000 for having a fund that was in the Treasury, to all intents and purposes, for simply having it included in a judgment, and thereby lost $50,000 that was paid to them annually, being 4 per cent interest on $1,250,000, and now the Indians have nothing—only the judgment.

In order that the committee may clearly understand just what this $1,250,000 proposition is, I will read the third article of the treaty made in 1880, which is as follows:

That in consideration of the cession of territory to be made by the said confederated bands of the Ute Nation, the United States, in addition to the annuities and sums for provisions and clothing stipulated and provided for in existing treaties and laws, agrees to set apart and hold, as a perpetual trust for the said Ute Indians, a sum of money, or its equivalent in bonds of the United States, which shall be sufficient to produce the sum of $50,000 per annum, which sum of $50,000 shall be distributed per capita to them annually forever.

In the act of Congress approved June 15, 1880, ratifying the treaty, a provision was incorporated, which is section 5 of the act, and reads as follows:

That the Secretary of the Treasury shall, out of any moneys in the Treasury not otherwise appropriated, set apart and hold as a perpetual trust fund for said Ute Indians an amount of money sufficient at 4 per cent to produce annually $50,000, which interest shall be paid to them per capita in cash annually, as provided in said agreement.

It will be noted that the treaty obligated the United States to pay the Indians $50,000 annually forever. The jurisdictional act, as has already been stated, provided that $1,250,000 should be incorporated in the judgment and thereafter interest should cease.

Mr. GODWIN of North Carolina. If the gentleman will permit, does the gentleman know how many attorneys there were?

Mr. BURKE of South Dakota. I have this information, the court gives the names of the attorneys that appeared as counsel in the case and the names of several that it is stated appeared on the brief.

Mr. GODWIN of North Carolina. Will the gentleman please state the names of the attorneys?

Mr. BURKE of South Dakota. I will be glad to do so, as they appear in the report. They are Mr. J. M. Vale and Mr. Marion Butler for the claimants, and Messrs. C. C. Clements, James M. E. O'Grady, Samuel J. Crawford, Richard F. Pettigrew, Melvin E. Grigsby, Adair Wilson, William C. Shelley, and Kie Oldham were on the brief.

Mr. GODWIN of North Carolina. Will the gentleman state how they received their money if there was no authority at law for it?

Mr. BURKE of South Dakota. I am unable to inform the gentleman, except the disbursing officer of the Treasury undoubtedly assumed, and perhaps rightly, as I have already stated, that he had the authority under the jurisdictional act, there being some $2,000,000 received for the sale of ceded land, that they could pay the attorneys' fees out of that fund.

Mr. MANN. There was over a million of dollars at that time in the Treasury?

Mr. BURKE of South Dakota. Oh, quite a sum.

Mr. GODWIN of North Carolina. You say the attorneys' fee has been paid and the judgment has not been paid?

Mr. BURKE of South Dakota. The judgment has not been paid, and so far as I know the attorneys are not exercising themselves at the present time to see that the judgment is paid, and I presume it would be better from their standpoint if it is not paid, because it affords an opportunity for another good big fee for getting legislation to pay a judgment rendered by the Court of Claims, and a final judgment, the time for an appeal having expired and no appeal having been taken.

Mr. GODWIN of North Carolina. Do you consider the pay reasonable and fair for services rendered?

Mr. BURKE of South Dakota. Mr. Chairman, I have some views relative to services rendered by lawyers and others for lobbying before committees of Congress, and especially with individual Members, for as a general thing they do not make a practice of going before committees, but do their work, as before stated, with a few individuals and usually with those comprising the conferees on the Indian appropriation bill. I think my position is pretty well understood upon that question. I do not care to stop and discuss it now. But I do say that we ought not to pass these jurisdictional acts conferring upon the Court of Claims jurisdiction to determine by an amendment on an appropriation bill put on in another body and agreed to in conference, without any consideration in the House and without either the Senate or the House knowing anything about what is behind the claim or the merits of it.

Mr. GODWIN of North Carolina. What act authorized the payment of this attorney's fee?

Mr. BURKE of South Dakota. I assume the jurisdictional act; I have twice stated my opinion regarding it.

Mr. GODWIN of North Carolina. In what Congress?

Mr. BURKE of South Dakota. In the Fifty-ninth Congress, second session, and I want to say to the gentleman that this came to the House from the Senate as an item in the Indian appropriation bill and was agreed to in conference. I want to further say in justification of my own position as a member of the Committee on Indian Affairs that I was not a Member of Congress at the time this appropriation bill passed. It was during the Sixtieth Congress, when I was not a Member.

Mr. MANN. Will the gentleman yield to a question in reference to the attorneys' fees? Were they not computed by the court upon a percentage basis?

Mr. BURKE of South Dakota. On the basis of 6 per cent, I will say to the gentleman, on the amount of the judgment.

Mr. MANN. Was that not by agreement or stipulation among the counsel?

Mr. BURKE of South Dakota. I think not. I think, Mr. Chairman, if you were to get the facts on that you would find that these gentlemen were claiming 15 per cent of this judgmen. And I will say further that there was a former suit brought in the Court of Claims under a resolution sending the matter to the court under the Tucker Act, and it was dismissed by the court for want of jurisdiction. The attorneys in that proceeding were some of the same attorneys in the later proceeding when the judgment was obtained, and they claimed in the first case that they were operating under a contract which had been obtained from the Indians in 1897 which provided a fee of not exceeding 15 per cent. In that suit they were claiming $10,000,000 from the United States.

Mr. MANN. I would like to make another inquiry of the gentleman in this connection. As I understand, the gentleman who had the contract for representing the Indians in this case was a Mr. Vale?

Mr. BURKE of South Dakota. Yes, sir.

Mr. MANN. And that there appears in the record in this case as counsel in the case one Marion Butler and one Richard F. Pettigrew? I would like to make the bald inquiry whether those two gentlemen were Members of the United States Senate at the time that Mr. Vale secured his contract to represent the Indians in this matter?

Mr. RUCKER of Colorado. The date would show.

Mr. BURKE of South Dakota. In answer to the inquiry of the gentleman, I would say that in the Forty-third Court of Claims Report, page 260, is the report in the case of the White River Utes et al. against The United States, and by reference to this opinion I find that the contracts were made in 1896—I think in November. At that time Mr. Butler and Mr. Pettigrew were Members of the Senate. The jurisdictional act that sent this case to the Court of Claims the first time, which was under the Tucker Act, says:

> The said Indians may be represented in the prosecution of said claims by Josiah M. Vale, Courtland C. Clements, Kie Oldham, William C. Shelley, Adair Wilson, and William S. Peabody, the attorneys named in the contracts between said Indians and said attorneys on file in the office of the Commissioner of Indian Affairs, bearing date November 7, 1896, October 31, 1896, and July 1, 1897; and the Secretary of the Treasury is hereby authorized and directed to set apart and pay to said attorneys as their compensation a sum of money not to exceed 15 per cent of the sum paid to said Indians, or awarded or found to be due to them or deposited in the Treasury for their benefit as hereinbefore provided.

I am reading from the first jurisdictional act.

Mr. MARTIN of Colorado. When was that passed?

Mr. BURKE of South Dakota. In the Fifty-eighth Congress, first session, which would be in 1908, and the reason the suit was dismissed that was brought under that act was that the court said:

> Thus it will be seen that the bill seeks to confer upon the Secretary of the Interior judicial powers; that is to say, the construction of treaties and agreements and the determination of the amount due for use and occupation, etc. In other words, it makes the Department of the Interior a court in which is to be settled and adjudicated the matters in difference between the Indians and the Government, and calls upon the Secretary of that department for something more than the mere exercise of his present duty which would have been needless. The bill does not call for the "payment of a claim" within the meaning of the fourteenth section of the Tucker Act, but directs the Secretary of the Interior to adjudicate this claim in the manner provided by the bill, and upon such adjudication it is to be paid.
>
> * * * * * * *
>
> What is this court called upon to do by the present reference? There can be but one answer to the question, and that is, That it is asked to do just what it would have been the duty of the Secretary of the Interior to do in case the bill had become a law, and that is to try the lawsuit between parties and determine the amount which shall be recovered.
>
> If Congress desires to give this court jurisdiction to try this lawsuit between these Indians and the Government, and finally adjudicate the matter, it will do so by law conferring upon this court that jurisdiction. It will give this court just the same jurisdiction which the present bill seeks to confer upon the Secretary of the Interior.

Mr. GODWIN of North Carolina rose.

Mr. BURKE of South Dakota. I will yield first to the gentleman from Colorado [Mr. MARTIN].

Mr. MARTIN of Colorado. This jurisdictional act authorizes compensation by attorneys' fees equivalent to 15 per cent of the amount involved?

Mr. BURKE of South Dakota. Not to exceed 15 per cent. That was the resolution that passed in 1908. The later act left it to be determined by the court.

Mr. MARTIN of Colorado. What did the contract with the attorneys call for?

Mr. BURKE of South Dakota. I suppose 15 per cent.

In the jurisdictional act, which was incorporated in the Indian appropriation bill in 1909, direction was given to the court to consider the evidence that had been taken in the case which had been dismissed for want of jurisdiction, so that in the last trial it was merely a matter of computation, practically, and the examination of the evidence that had already been taken. In fixing the fee, the court commented as follows:

> It appears that the principal services rendered in this matter were before the committee in Congress. Such services can hardly be allowed for on the basis of the professional services of a lawyer, and this fact renders it somewhat difficult to determine the amount properly to be fixed. The fact also should be noted that there was no appeal from the decision of this court in this suit, which would necessarily involve

considerable more labor and expense; neither were any witnesses examined on either side; in fact, the whole case was tried upon the record as made up by official reports and public documents.

Mr. GODWIN of North Carolina. Is it not a fact that at the time these contracts were made for the attorneys' fees Marion Butler was then a United States Senator from the State of North Carolina?

Mr. BURKE of South Dakota. My understanding is that he was.

Mr. GODWIN of North Carolina. Is it not a fact that afterwards he became a law partner with this recipient of attorneys' fees, Mr. Vale?

Mr. BURKE of South Dakota. I think it is well understood that he is the law partner of Mr. Vale.

Mr. Chairman, as to why this appropriation ought to be made, in addition to what I have stated before, this judgment was entered under a provision in the agreement of 1880. The Indians were to be paid annually a sum of money to be determined by computing the interest at 4 per cent on an amount that would equal $1,250,000. Therefore, $1,250,000 was in the Treasury, ostensibly as a paper credit, and the Indians received $50,000 every year. That was charged to them in this judgment.

The jurisdictional act provided that as soon as a judgment was rendered that $1,250,000 should be merged in the judgment, and the interest thereon, which was being paid annually, should cease. Consequently, the Indians have not been receiving the $50,000 a year and have not had a cent since that judgment was entered, so that their condition at the present time is this: Judgment has been entered in their favor against the United States; by reason of that judgment $211,000 in round figures of money that belonged to them has been paid to certain attorneys; $50,000 a year, which they had received annually under the agreement with the Government, has ceased; and the Indians to-day are in a destitute condition. The department, in the estimate which is submitted, makes the statement that the Indians are reported to be in a destitute condition, and by reason of the comptroller's decision there are no means afforded for their relief.

It was thought that under the jurisdictional act this money would be available without an appropriation by Congress. But the comptroller held otherwise, and, consequently, as I have already stated, they are entirely without any income whatever, and we owe it, I say, to these Indians that we make an appropriation to pay this judgment, regardless of whether it is $3,000,000 or $10,000,000; and we ought to do it in order to avoid a further scandal, which will probably follow, in consequence of a large sum of money being paid to somebody who will come here and secure legislation providing an appropriation for the payment of this judgment.

Therefore, I hope that the gentleman from New York [Mr. FITZGERALD] will accept this amendment and take care of this on this general deficiency bill, where it properly belongs, so that the conferees on the Indian appropriation bill may be relieved of an item that is now upon the Indian appropriation bill that is not there properly.

Mr. FITZGERALD. Mr. Chairman, in order to get the matter adjusted, I shall withdraw the point of order and move that all debate on the pending amendment close in 15 minutes.

Mr. RUCKER of Colorado. Mr. Chairman, I ask that the amendment be again reported.

The CHAIRMAN. The Clerk will report the amendment.

The amendment was again read.

Mr. FITZGERALD. Mr. Chairman, I move to close all debate in 10 minutes.

The CHAIRMAN. The question is on the motion of the gentleman from New York that all debate close in 10 minutes.

The motion was agreed to.

Mr. FITZGERALD. Mr. Chairman, I hope this amendment will not be adopted. It is not necessary to appropriate $3,300,000 to satisfy this judgment or carry out its terms, if eventually they should be carried out. A direction to open an account to the credit of the Indians, and a provision for the payment of the interest upon the designated sum, would be all that would be required. The gentleman from South Dakota [Mr. BURKE] has referred at some length to the more important facts in this case. I have examined, as carefully as possible, the judgment of the Court of Claims. It appears from the findings of fact that sums aggregating $3,322,305.34 expended by the United States for the benefit of these Indians were not set off against their claim. The court states in its opinion that it believes adequate consideration has moved to the United States for these payments.

I have not had opportunity to give that examination which would induce me to be willing to acquiesce in that finding.

From an examination of the opinion of the court it is very difficult to ascertain the reasons for the attitude of the court upon some important phases of the questions involved. I endeavored to have Judge Barney, of the Court of Claims, come here and go over the case with the members of the committee, so that they might be more fully informed regarding it. Unfortunately he is away from the city and will not return until October. There are enough unsatisfactory features about this judgment to make it advisable that the Congress proceed slowly in satisfying it as proposed by the gentleman from South Dakota.

Mr. MARTIN of Colorado. May I interrupt the gentleman?

Mr. FITZGERALD. Certainly.

Mr. MARTIN of Colorado. I should like to know if the gentleman thinks Congress ought to proceed so slowly as to give no consideration whatever to a claim of this character?

Mr. FITZGERALD. But consideration is being given.

Mr. MARTIN of Colorado. The gentleman knows that I repeatedly demanded a hearing on my bill before his committee.

Mr. BURKE of South Dakota. I appreciate the fact that the gentleman's time is limited, but I should like to ask him one more question.

Mr. MARTIN of Colorado. I do not think the gentleman's time needs to be so limited.

Mr. BURKE of South Dakota. I should like to ask the gentleman from New York if this is not a final judgment of the Court of Claims, and if the time for appeal has not expired?

Mr. FITZGERALD. Yes.

Mr. MARTIN of Colorado. Mr. Chairman, I make the point of no quorum present, if the gentleman's time is so precious.

The CHAIRMAN. The gentleman from Colorado [Mr. MARTIN] makes the point of no quorum present. [After counting.] Fifty-one Members present; not a quorum. The Clerk will call the roll.

The Clerk proceeded to call the roll, when the following Members failed to answer to their names:

Adair	Davis, W. Va.	Hinds	Patton, Pa.
Aiken, S. C.	De Forest	Holland	Pepper
Ainey	Denver	Howard	Peters
Ames	Dies	Howland	Pickett
Anderson, Minn.	Difenderfer	Hughes, Ga.	Porter
Andrus	Dodds	Hughes, N. J.	Powers
Ansberry	Donohoe	Hughes, W. Va.	Prince
Anthony	Draper	Jackson	Pujo
Austin	Driscoll, M. E.	James	Randell
Ayres	Dwight	Johnson, Ky.	Reyburn
Barchfeld	Dyer	Kahn	Riordan
Barnhart	Edwards	Kindred	Roberts, Mass.
Bartholdt	Ellerbe	Kinkead, N. J.	Roberts, Nev.
Bartlett	Esch	Kopp	Roddenbery
Bates	Fairchild	Lafean	Rodenberg
Bathrick	Faison	Langham	Rothermel
Beall, Tex.	Ferris	Langley	Rucker, Mo.
Bell, Ga.	Fields	Lawrence	Sabath
Berger	Finley	Lee, Ga.	Saunders
Booher	Focht	Legare	Scully
Bradley	Fordney	Lenroot	Sells
Brantley	Fornes	Levy	Sheppard
Broussard	Foss	Lewis	Sherwood
Browning	Fuller	Lindsay	Simmons
Burgess	Gardner, Mass.	Linthicum	Slemp
Burke, Pa.	Gardner, N. J.	Littlepage	Small
Butler	Garner	Littleton	Smith, J. M. C.
Byrnes, S. C.	Garrett	Longworth	Smith, Saml. W.
Calder	George	Loud	Smith, Cal.
Calloway	Gillett	McCall	Smith, N. Y.
Campbell	Glass	McCoy	Speer
Cantrill	Goldfogle	McCreary	Stack
Carlin	Graham	McGuire, Okla.	Stanley
Carter	Green, Iowa	McHenry	Stephens, Miss.
Cary	Gregg, Pa.	McKenzie	Switzer
Catlin	Gregg, Tex.	Macon	Talbott, Md.
Clark, Fla.	Griest	Madden	Taylor, Ala.
Clayton	Guernsey	Maher	Thistlewood
Cline	Hamill	Martin, S. Dak.	Thomas
Collier	Hamilton, Mich.	Matthews	Tilson
Cooper	Hamilton, W. Va.	Miller	Towner
Copley	Hardwick	Moon, Pa.	Turnbull
Covington	Harris	Moon, Tenn.	Underhill
Cox, Ind.	Harrison, N. Y.	Moore, Tex.	Utter
Cox, Ohio	Hartman	Morgan	Vare
Crago	Haugen	Morse	Vreeland
Cravens	Hayden	Mott	Webb
Crumpacker	Hayes	Murdock	White
Currier	Heald	Needham	Wilder
Dalzell	Helgesen	Nelson	Wilson, Ill.
Danforth	Helm	Nye	Wilson, N. Y.
Daugherty	Henry, Conn.	Oldfield	Wood, N. J.
Davenport	Higgins	Olmsted	Woods, Iowa
Davidson	Hill	Patten, N. Y.	

The SPEAKER. The Clerk will call my name.

The Clerk called the name of Mr. CLARK of Missouri, and he answered "Present."

The committee rose; and the Speaker having resumed the Chair, Mr. HAMMOND, Chairman of the Committee of the Whole House on the state of the Union, reported that that committee had had under consideration the general deficiency appropriation bill; and, finding itself without a quorum, he had directed

the roll to be called, when 174 Members had responded to their names—a quorum—and he reported the names of the absentees to the House.

Mr. MARTIN of Colorado. Mr. Speaker, I rise to a question of personal privilege.

Mr. FITZGERALD. Mr. Speaker, I make the point of order that nothing is in order at this time except for the committee to resume its sitting.

The SPEAKER. Nothing is in order at this juncture except for the committee to resume its sitting.

The committee resumed its sitting.

Mr. FITZGERALD. Mr. Chairman, as I was stating when the point of order of no quorum was made, it appears from the findings of the Court of Claims that credit was not given to the United States for $3,322,000. More than 7,500,000 acres of land additional will be disposed of for the benefit of those Indians, if I understand the decision correctly, under the terms of this decision. For some reason or other no appeal was taken from this judgment on the part of the United States to the United States Supreme Court. So far as the Committee on Appropriations were able to determine, it was impossible to say, without further investigation, whether legislation should not be enacted compelling an appeal to be taken on behalf of the United States Government before the judgment should be accepted as conclusive against its interests. It is true that these Indians appear to be in a condition where some appropriation is needed for their relief. I hope that before this session of Congress expires provision will be made to tide them over the present situation, but I sincerely trust that this amendment to appropriate $3,300,000, and interest thereon at 4 per cent, for their benefit under this judgment, will not be adopted at this time. It is one of those pieces of legislation incorporated in an appropriation bill in another body, agreed to during the short session of Congress under great pressure. After an opportunity is afforded to examine it most everyone fears to have anything to do with it. Here was legislation of a most remarkable character, providing that the United States should consider as disposed of for cash Indian lands placed in a forest reserve under Executive order.

Mr. BURKE of South Dakota. Mr. Chairman, will the gentleman yield?

Mr. FITZGERALD. Yes.

Mr. BURKE of South Dakota. I do not want the gentleman to misstate the facts, and I know he does not intend to. He misunderstands the situation. Under the treaty of 1880 the Indians ceded all these lands to the United States.

Mr. FITZGERALD. I understand that.

Mr. BURKE of South Dakota. And the United States agreed to sell the land and apply the proceeds to the benefit of the Indians; and it took about 4,000,000 acres and appropriated the land to its own use, creating a number of forest reservations, and the jurisdictional act, incorporated in the Indian appropriation act of 1909, authorized and directed the court to find how much those lands were worth.

Mr. FITZGERALD. It did more than that. It provided that lands set aside from public lands or in reservations should be considered as sold for cash. The court apparently has ignored or forgotten the Lone Wolf case, in which the United States Supreme Court, in One hundred and eighty-seventh United States, decided that the power of Congress in these matters was so comprehensive as to completely revolutionize the attitude and the action taken by Congress in these respects. These lands could easily have been in reserves and yet utilized beneficially by the Indians.

Mr. BURKE of South Dakota. Mr. Chairman, Congress by the jurisdictional act directed the court to do it.

Mr. FITZGERALD. I understand that, but I am speaking of the extraordinary character of that act and the Court of Claims in fixing the compensation of counsel at $211,000—6 per cent upon the amount of the judgment, which included $1,250,000 already in the Treasury to the credit of the Indians—stated that the services for which compensation was to be awarded were services rendered almost entirely in work before committees of Congress, and it emphasized the fact that it must have required remarkable services and services of a very high order to persuade Congress to treat these lands placed in forest reserves as lands actually sold for cash.

Mr. Chairman, the time does not permit a fuller or more comprehensive discussion of the terms of this judgment. I think it will be sufficient to say to this committee that the Committee on Appropriations took up the question of including an item in this bill to satisfy this judgment. After examination and upon investigation it was so doubtful as to the propriety of recommending the item at this time that, without dissent whatever, it determined that it would be very unwise and improper to make a recommendation until an opportunity should be given to obtain further information that would enable the committee to understand better the decision of the court and to determine whether Congress should not be requested to enact legislation which would require an appeal in order to protect the interests of the United States. I hope that the amendment will not be agreed to.

Mr. RUCKER of Colorado. Mr. Chairman, will the gentleman yield?

Mr. FITZGERALD. Yes.

Mr. RUCKER of Colorado. The gentleman does not mean to lay down the policy that the Committee on Appropriations shall stand here and report an appeal from a judgment of the Court of Claims?

Mr. FITZGERALD. No; I do not lay that down as a policy, but I say this——

Mr. RUCKER of Colorado. Wait one moment. The gentleman has answered that question. Will the gentleman give one single instance wherein he thinks this judgment rendered by the Court of Claims is not founded upon justice, except that it had allowed the $210,000 to these attorneys.

Mr. FITZGERALD. Yes; in the tenth finding of fact, found on page 9 of the decision of the court, the court finds that $3,322,305.34, within $200,000 of the amount found to be due to the Indians, had been expended by the United States for the benefit of Indians, and that amount was not allowed as a set-off against the claims of the Indians.

Mr. RUCKER of Colorado. But will the gentleman not admit——

Mr. FITZGERALD. Let me conclude my statement. I will state the facts. The court stated that in its opinion, under the treaty, it believed that adequate consideration had moved to the United States for this expenditure. Members of the committee are unable to acquiesce in that determination without further opportunity to investigate. They also desire an opportunity to ascertain why an appeal was not taken on behalf of the United States from this judgment. If the United States Supreme Court determined that this $3,322,000 should have been allowed to the United States as a credit instead of a judgment aggregating $3,500,000 in favor of the Indians there would have been only a judgment of $200,000. Under all of these circumstances, disinterested in the matter, and anxious to do only that which will mete out full judgment to the United States and those claiming to be the beneficiaries under this judgment, the committee requests that this item be not agreed to at this time.

The CHAIRMAN. The time of the gentleman has expired. All time has expired.

Mr. MANN. Mr. Chairman, I think the Chair is in error. The committee did vote to close debate in 10 minutes, but we are proceeding under the 5-minute rule. The gentleman has only had 5 minutes, and therefore the time has not expired.

The CHAIRMAN. The gentleman from New York has occupied a longer period than five minutes.

Mr. MANN. If the Chair has overrun the time, that is not the fault of the committee. There has only been one five-minute period.

The CHAIRMAN. The gentleman from Illinois is recognized for five minutes.

Mr. MANN. Mr. Chairman, I desire to be notified at the end of three minutes, if I may. I agree with the gentleman from New York [Mr. FITZGERALD] that this judgment ought not to go into this bill at this time. I appreciate the motives of the distinguished gentleman from South Dakota [Mr. BURKE] in offering the amendment. The same proposition is pending as a Senate amendment to the Indian appropriation bill—where it does not belong—and if it is to be appropriated for at this time—where it does not belong—it should be upon this bill. The trouble is, however, this whole case reeks with suspicion, if not with fraud. The claim originally provided by a Senate amendment introduced in those peculiar ways which the body at the other end of the Capitol sometimes agrees to and kept in the appropriation bill in conference in the closing hours of a short session of Congress through the influence of hired or employed counsel friendly to various members of the conference committee or other Members of Congress getting into the Court of Claims under peculiar circumstances like this, not as an ordinary claim, but with direction in the jurisdictional act to the Court of Claims, a judgment has been rendered, which judgment, in my opinion, ought not to be paid until there has been an investigation. When Marion Butler, at one time a distinguished Senator of the United States—or a Senator of the United States, I would say—and since then a lobbyist and attorney for Indian claims, is connected with one of these claims, that fact of itself is enough to excite some suspicion; but when

connected with him in the case there are a number of other names of men who appear in the brief as counsel who never did a stroke of service in the case, except to endeavor to influence the action of Congress through personal influence, the claim still requires further investigation. These gentlemen have been paid over $200,000 for lobbying, and the court has found that most of the money was for lobbying before Congress. I am not in favor of paying the judgment until we know whether we owe the money, regardless of the provisions of the jurisdictional act inserted in this manner. I hope the Chair will now recognize my colleague from Illinois [Mr. CANNON] for the remaining two minutes.

Mr. FOWLER. Mr. Chairman, I desire to ask the gentleman one question before the gentleman from Illinois makes his speech.

Mr. CANNON. The time is all up. Mr. Chairman, in the two minutes I merely desire to say that this is a judgment of the Court of Claims. I am not prepared to say by any manner of means considering the jurisdictional act that the judgment is not correct. I apprehend that it is. I have confidence in the Court of Claims, but it seems by virtue of the jurisdictional act that the Indians under this judgment are cut off from $50,000 a year that they were getting as an annuity and now do not get anything. It seems further that the attorneys got $200,000 plus and the Indians did not get anything. The attorneys have got——

Mr. BURKE of South Dakota. The Indians have lost what they had.

Mr. CANNON. Have lost their $50,000 a year. We made a little investigation and when we found that it was a question that ought to be investigated and that a Senate amendment had put this item upon the Indian appropriation bill, we said under all the circumstances that we were not satisfied and did not report it. Now, I believe before this Congress adjourns that this judgment ought to be appropriated for, but if it is not appropriated for I believe that an amount sufficient to meet the immediate wants of the distressed Indians, 2,000 of them, who have been cut off from what they were getting, should be provided for by appropriation, reimbursable from what in the end ought to come to them from this judgment.

The CHAIRMAN. The time of the gentleman has expired. The question is on agreeing to the amendment offered by the gentleman from South Dakota.

The question was taken, and the Chairman announced the noes seemed to have it.

On a division (demanded by Mr. FITZGERALD) there were—ayes 3, noes 78.

So the amendment was rejected.

Mr. BURKE of South Dakota. Mr. Chairman, I desire to ask leave to extend and revise my remarks in the RECORD on the subject of the amendment I offered in reference to the Ute Indians.

The CHAIRMAN. Is there objection to the request of the gentleman from South Dakota. [After a pause.] The Chair hears none.

The Clerk read as follows:

JUDGMENTS IN INDIAN DEPREDATION CLAIMS.

For payment of judgments rendered by the Court of Claims in Indian depredation cases, certified to Congress in House Document No. 776, at its present session, $39,971; said judgments to be paid after the deductions required to be made under the provisions of section 6 of the act approved March 3, 1891, entitled "An act to provide for the adjustment and payment of claims arising from Indian depredations," shall have been ascertained and duly certified by the Secretary of the Interior to the Secretary of the Treasury, which certification shall be made as soon as practicable after the passage of this act, and such deductions shall be made according to the discretion of the Secretary of the Interior, having due regard to the educational and other necessary requirements of the tribe or tribes affected; and the amounts paid shall be reimbursed to the United States at such times and in such proportions as the Secretary of the Interior may decide to be for the interests of the Indian Service: *Provided*, That no one of said judgments provided in this paragraph shall be paid until the Attorney General shall have certified to the Secretary of the Treasury that there exists no grounds sufficient, in his opinion, to support a motion for a new trial or an appeal of said cause.

Mr. MANN. Mr. Chairman, I reserve a point of order upon the paragraph. I desire to ask the gentleman from New York [Mr. FITZGERALD] if he knows whether the language of this paragraph, which relates to judgment in Indian depredation claims, provides that judgment shall be made according to the discretion of the Secretary of the Interior, and so forth, "shall be reimbursed to the United States at such times and in such proportions as the Secretary of the Interior may decide to be for the interest of the Indian Service." My recollection is that the law provided that Indian depredation claims shall be paid when there is no money in the Treasury to the credit of the Indians out of the General Treasury and to be reimbursable out of the fund of the Indians.

Mr. FITZGERALD. That is the provision of the law. The statute provides:

That the amount of any judgment so rendered against any tribe of Indians shall be charged against the tribe by which, or by members of which, the court shall find that the depredation was committed, and shall be deducted and paid in the following manner: First, from annuities due said tribe from the United States; second, if no annuities are due or available, then from any other funds due said tribe from the United States, arising from the sale of their lands or otherwise; third, if no such funds are due or available, then from any appropriation for the benefit of said tribe, other than appropriations for their current and necessary support, subsistence, and education; and, fourth, if no such annuity, fund or appropriation is due or available, then the amount of the judgment shall be paid from the Treasury of the United States: *Provided*, That any amount so paid from the Treasury of the United States shall remain a charge against such tribe, and shall be deducted from any annuity, fund or appropriation hereinbefore designated which may hereafter become due from the United States to such tribe.

Mr. MANN. I will say to the gentleman in all frankness that I am not sure there is a subsequent statute on the subject; and I make a point of order against this language and the paragraph, Mr. Chairman:

On page 45, in line 5, after the word "act," all of the language down to line 8, to and including the word "affected"; and also, beginning in line 9, at the end of the line, down to and including the word "service" in line 12.

Mr. FITZGERALD. I ask the Clerk to report the language.

Mr. MANN. The language against which I make the point of order is this. Beginning on line 5—

and such deductions shall be made according to the discretion of the Secretary of the Interior, having due regard to the educational and other necessary requirements of the tribes affected.

And then again, beginning, in line 9, with the word "at," at the end of the line—

at such times and in such proportions as the Secretary of the Interior may decide to be for the interest of the Indian service.

Mr. FITZGERALD. You might as well take it all out. The rest is the law, anyway.

Mr. MANN. The rest provides simply, according to statute, for reimbursement.

Mr. FITZGERALD. The gentleman might as well take it out if he is going to take the other out.

Mr. MANN. I do not care to take out what the statute provides for. That leaves it reading right. It does not interfere with the sense of it.

Mr. FITZGERALD. The language to which the gentleman calls attention modifies the statute. It has been incorporated in this particular bill because for a great many years these judgments in Indian depredation cases have been provided for with these modifications of the act of March 3, 1891. I am not aware whether the discretion has ever been exercised by the Secretary of the Interior or not.

Mr. MANN. The committee reporting this bill has followed the practice, and I will say frankly I am not sure but they followed the law. If it is the law, it is not necessary for it to be in here. But the fact is these funds have been paid out of the Federal Treasury for years without any apparent attempt to have them reimbursed.

Mr. FITZGERALD. We might as well get that money as to have it go to some attorneys.

Mr. MANN. I think myself that that is right.

Mr. FITZGERALD. I concede the point of order.

The CHAIRMAN. Both points of order are sustained. The Clerk will read.

The Clerk read as follows:

For transportation of the Army and its supplies, $43,244.21.

Mr. BURKE of South Dakota. I move to strike out the last word, Mr. Chairman. I would like to ask the gentleman in charge of this bill if he can inform us whether or not under the item of "Transportation of the Army and its supplies" we are paying for the transportation of horses and men who go from some of the Army posts to some point—for instance, Washington—for the purpose of playing polo; whether the expenses are paid for out of appropriations that are made by Congress and whether this deficiency item is to cover any such expense?

Mr. MANN. Before the gentleman answers that I will say, in reference to the polo game, that I think it is worth it if it is.

Mr. BURKE of South Dakota. I was riding down on the Speedway one evening after the House had adjourned, during the recent polo contest here, and I stopped my machine to look at the game for a moment, and I was accosted by a policeman——

Mr. FITZGERALD. It probably saved the gentleman from being taken by the Sergeant at Arms.

Mr. BURKE of South Dakota (continuing). Who informed me that if I desired to stop in the street at the point where I did stop I would be required to pay $1, whereupon I moved on, not desiring to be arrested. Subsequently I saw in one of the

local papers that this public park was being used for the purpose of a polo contest, and that some one was collecting money from those who stopped in the street to observe the playing for the purpose of paying the expenses. I am trying to ascertain now whether or not the gentleman knows whether the cost of transporting horses and men from Fort Riley and Fort Sill and other posts in the United States to Washington and from here to other places is being paid for by the Government.

Mr. FITZGERALD. Mr. Chairman, there are a number of inquiries contained in the gentleman's question, and I shall make a statement covering them all.

There was an item submitted here to allow in the accounts of an officer for the purchase of polo ponies for the West Point cadets. Not knowing of any authority to make any such purchase, the item was not included in this bill. The appropriation for the transportation of the Army is carried in the bill for the support of the Army—the military establishment—and is not reported from the Committee on Appropriations. These particular items are audited claims which for some reason or other have not been presented in time to be paid out of the appropriations available, and are a class of claims that are paid when audited and inserted in the deficiency bill. My attention was called to the matter mentioned by the gentleman from South Dakota a short while ago. A few years ago, when the movement for playgrounds was very intense in this city, representations were made to the Committee on Appropriations that certain Government reservations could readily be utilized for playgrounds for children. Provision was made authorizing the engineer officer in charge of public buildings and grounds in the city of Washington to permit the use of such portions of the public service within the city of Washington as he deemed advisable for playground purposes.

It appears that under that statute a part of Potomac Park has been set aside as a playground for those who indulge in the pastime of polo, and under the same statute giving this authority, under such regulations as the Secretary of War might adopt, I am advised from information obtained in various ways that the engineer officer in charge of the public buildings and grounds in the city of Washington decided that he was authorized to impose a charge upon persons for stopping automobiles or other vehicles in public highways in the park in order to view the games.

The justification given for the charge was that it was necessary to expend some money in keeping the field in proper shape, and in order to obtain the revenue authority was given to the association, consisting of various Army polo teams, to make the charge. Of course in doing that several specific statutes were violated. There is no authority to permit anybody to spend other funds than those appropriated, and there is no authority which permits anybody to charge anybody for stopping at any place in the public parks. There is a statute expressly forbidding the acceptance of voluntary services or other contributions except by the authority of Congress.

Mr. BURKE of South Dakota. I would like to ask the gentleman whether or not the money that was collected was turned into the Treasury, and if it was how it was disbursed, or what disposition was made of it?

Mr. FITZGERALD. I doubt if it could be turned into the Treasury, because it could not be taken out and expended in keeping these grounds in shape without an appropriation; and, not having been turned into the Treasury, no other official was permitted to accept it in order to expend it on the grounds.

I do not think there is any authority anywhere which permits the making of such a charge, and I do not think it was contemplated that anybody could be charged. We spend a considerable sum of money in keeping Potomac Park in good condition. I doubt if there is any trouble in getting the money necessary and in getting Congress to keep this park in shape.

Mr. BURKE of South Dakota. Do I understand that the gentleman from New York [Mr. FITZGERALD] thinks that the expenses incident to the coming together of these men and horses that are used in this contest are paid for from the Federal Treasury?

Mr. FITZGERALD. I do not know. That is not a line of appropriations that come within the jurisdiction of the Committee on Appropriations.

Mr. SLAYDEN. Mr. Chairman, if the gentleman will permit me, I would like to make a statement.

Mr. FITZGERALD. I yield.

Mr. SLAYDEN. I will say, Mr. Chairman, that there is no appropriation made by the Committee on Military Affairs, which reports the Army appropriation bill, that would justify the Quartermaster General or any other officer in paying the expenses of transporting horses and men from one post to another for the purpose of playing polo.

Mr. BURKE of South Dakota. That was not my question.

Mr. KENDALL. The question is, Was it done?

Mr. BURKE of South Dakota. My question was whether or not the expenses were in fact paid out of the Federal Treasury.

Mr. SLAYDEN. I say there is nothing in the law that would warrant it, and if such a thing as that has been done it has been done contrary to the provisions of the law.

Mr. BURKE of South Dakota. I have been informed that it has been done.

Mr. SLAYDEN. Then I do not know under what regulations of the Quartermaster General it is done.

Mr. MANN. Mr. Chairman, I am one of the persons who paid a fee for the privilege of witnessing the game of polo on Potomac Park. I do not know how one could get a good opportunity of witnessing it without paying. Of course anybody could look at the game from a distance by taking an automobile out there, or taking a carriage out there, but nobody could see it to good advantage without getting into a good place, and then he would have to pay. I do not think that there is anything in the instruction and exercises that are practiced in the military schools, for which we pay large sums of money, that is worth as much to an Army officer when he comes to the time of fighting in a battle as the experience that he acquires in playing one of these fiercely contested polo games. Anyone who has watched the game can say the same thing. The boy who can play shinny without fear or favor has the nerve to be somebody. [Applause.] These men, I hope, are not "molly-coddles," and unless you want to make an army of "molly-coddles," do not stop the polo games. [Applause.]

Mr. KINKAID of Nebraska. I ask unanimous consent, Mr. Chairman, to recur to page 40, for the purpose of offering an amendment.

The CHAIRMAN. The gentleman from Nebraska [Mr. KINKAID] asks unanimous consent to return to page 40, for the purpose of offering an amendment. Is there objection?

Mr. FITZGERALD. What is the amendment?

Mr. KINKAID of Nebraska. It is in regard to a game reserve. It will take only a minute.

Mr. FITZGERALD. Let the amendment be reported.

Mr. KINKAID of Nebraska. It is an amendment for a reappropriation of funds heretofore appropriated and unexpended.

Mr. FITZGERALD. Let the amendment be reported for the information of the committee, or I shall be constrained to object.

The CHAIRMAN. The Clerk will report the amendment offered by the gentleman from Nebraska [Mr. KINKAID].

The Clerk read as follows:

Amend by inserting as a new paragraph, after line 21, page 40, the following:

"So much of the fund for the maintenance of the Montana National Bison Range and other reservations as remains unexpended on June 30, 1912, is hereby reappropriated and made available until expended for fencing and necessary sheds on the public lands in Cherry County, Nebr., heretofore reserved for game purposes, and for transporting thereto buffalo, elk, and deer which have been offered free to the Government."

The CHAIRMAN. Is there objection?

Mr. FITZGERALD. I object.

Mr. KINKAID of Nebraska. I would be pleased if the chairman of the Committee on Appropriations would withhold his objection until I can make an explanation.

Mr. FITZGERALD. A little later the gentleman can offer his amendment and make his statement.

The CHAIRMAN. Objection is heard, and the Clerk will read.

The Clerk read as follows:

CLAIMS ALLOWED BY THE AUDITOR FOR THE POST OFFICE DEPARTMENT.

For inland mail transportation (star), $396.72.
For inland mail transportation (railroad), $14.09.
For indemnity for losses by registered mails, $292.27.
For shipment of supplies, $236.21.
For freight on mail bags, postal cards, etc., $15.59.
For compensation to postmasters, $201.12.
For special-delivery service, fees to messengers, 8 cents.
For freight and expressage on mail bags, postal cards, etc., $13.07.
For Rural Free-Delivery Service, $131.39.
For rent, light, and fuel, $311.14.
For Railway Mail Service, salaries, $43.01.
For canceling machines, $37.50.
For clerk hire, first and second class, $125.
For clerk hire, third class, $8.
For clerk hire, separating, $72.
For City Delivery Service, incidental expenses, $3.75.
For claims for additional salary of letter carriers under section 2 of act of January 3, 1887, $8,315.81.

Mr. KINKAID of Nebraska. Mr. Chairman, I desire to reoffer at this point the amendment which I sent to the Clerk's desk.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Amend by inserting as a new paragraph, after line 6, page 59, the following:

"So much of the fund for the maintenance of the Montana National Bison Range and other reservations as remains unexpended on June 30, 1912, is hereby reappropriated and made available until expended for fencing and necessary sheds on the public lands in Cherry County, Nebr., heretofore reserved for game purposes, and for transporting thereto buffalo, elk, and deer which have been offered free to the Government.

Mr. FITZGERALD. Mr. Chairman, I reserve a point of order on that.

Mr. KINKAID of Nebraska. Mr. Chairman, in explanation of the amendment, I desire to have read a letter of the Secretary of the Treasury and a letter of the Secretary of Agriculture out of my time.

The Clerk read as follows:

TREASURY DEPARTMENT,
OFFICE OF THE SECRETARY,
Washington, May 31, 1912.

THE SPEAKER OF THE HOUSE OF REPRESENTATIVES.

SIR: I have the honor to transmit herewith, for the consideration of Congress, a communication from the Secretary of Agriculture of the 29th instant, submitting an estimate of reappropriation for inclusion in the general deficiency bill, as follows:

"General expenses, Bureau of Biological Survey: So much of the fund for the maintenance of the Montana National Bison Range and other reservations as remains unexpended on June 30, 1912, is hereby reappropriated and made available until expended for fencing on the national mammal and bird reservations and for transportation of game; and hereafter the appropriation for maintenance of said reservations may be utilized for fencing and for construction of shelters, sheds, and other necessary buildings: *Provided*, That the cost of any one building shall not exceed $500."

Respectfully, FRANKLIN MACVEAGH, *Secretary.*

DEPARTMENT OF AGRICULTURE,
OFFICE OF THE SECRETARY,
Washington, D. C., May 29, 1912.

THE SECRETARY OF THE TREASURY.

SIR: I have the honor to submit, as an estimate for inclusion in the general deficiency bill for the fiscal year ending June 30, 1912, the following provision, and would respectfully request its immediate submission to Congress:

"General expenses, Bureau of Biological Survey: So much of the fund for the maintenance of the Montana National Bison Range and other reservations as remains unexpended on June 30, 1912, is hereby reappropriated and made available until expended for fencing on the national mammal and bird reservations and for transportation of game; and hereafter the appropriation for maintenance of said reservations may be utilized for fencing and for construction of shelters, sheds, and other necessary buildings: *Provided*, That the cost of any one building shall not exceed $500."

In explanation of this estimate, I may state that the Bureau of Biological Survey has recently received an offer of a gift of 39 buffalo, elk, and deer. This offer is conditioned on the animals being placed on a reservation in Nebraska and is not available for reservations elsewhere. The Niobrara Reservation is the only place in the State of Nebraska available for this purpose, and in order to avail itself of the present offer the department must construct an inclosure on the Niobrara Reservation immediately and arrange for the transfer of the animals at an early date. The reservation in question is well adapted to the purpose, and the present appropriation, if made available, will admit of the transfer of the herd, but the department is without specific authority to erect the necessary fencing. No additional appropriation is necessary if the balance remaining in this fund can be reappropriated for this purpose.

Very respectfully, W. M. HAYS, *Acting Secretary.*

Mr. KINKAID of Nebraska. Mr. Chairman, as shown by the letter, the purpose is to enable the Government to avail itself of the gift tendered it by the owner of a herd of buffalo, elk, and deer in Nebraska. It is a herd which he has bred up and held for a long time, an exceptionally fine herd. He is a Nebraska patriot, and for that reason wishes the herd kept in Nebraska, and offers it to the Government free, upon condition that the herd be kept at some point in Nebraska.

Heretofore the reservation, which is a part of the former Fort Niobrara Military Reservation, was set apart by Executive order for a game preserve, and this generous offer has since been made. The departmental officials are now very anxious to avail themselves of the gift of this very fine herd. No new appropriation of money is necessary. This amendment proposes to make the existing appropriation available and to enable the department to use it to the best advantage. I would like very much to have a vote upon the amendment.

Mr. STEPHENS of Texas. I desire to know what is the size of this game reservation.

Mr. KINKAID of Nebraska. About 12,000 acres.

Mr. STEPHENS of Texas. What animals are in the reservation at the present time?

Mr. KINKAID of Nebraska. Nothing but birds.

Mr. STEPHENS of Texas. How far are these buffalo from this reservation?

Mr. KINKAID of Nebraska. I should estimate the distance at about 170 miles.

Mr. MOORE of Pennsylvania. Will the gentleman yield?

Mr. KINKAID of Nebraska. Certainly.

Mr. MOORE of Pennsylvania. Is this herd composed entirely of elk?

Mr. KINKAID of Nebraska. Buffalo, elk, and deer.

Mr. MOORE of Pennsylvania. Are there any bull moose in it?

Mr. KINKAID of Nebraska. We will keep them in Nebraska, if there are any.

Mr. STEPHENS of Texas. Will the gentleman inform us about how many buffalo there are in this herd, and how many it is proposed to put into this reserve?

Mr. KINKAID of Nebraska. I do not know just how many. I think about one-third of the total number of 39 are buffalo, but I do not remember definitely about that.

Mr. STEPHENS of Texas. Does not the gentleman think 12,000 acres are a good deal of land for 39 buffalo to run over?

Mr. MOORE of Pennsylvania. Not if the herd includes any bull moose.

Mr. KINKAID of Nebraska. We do not expect the herd to remain as small as it is. We expect to have a thousand head there in the course of time.

Mr. STEPHENS of Texas. They are increasing very rapidly, as I understand it.

Mr. KINKAID of Nebraska. I presume so.

Mr. STEPHENS of Texas. I favor the gentleman's amendment.

Mr. RUCKER of Colorado. Is the gentleman going to exclude sheep from this reservation?

Mr. KINKAID of Nebraska. They are going to build a fence around it and that will exclude sheep; yes.

Mr. RUCKER of Colorado. That puts me pretty hard up against the gentleman's proposition.

Mr. KINKAID of Nebraska. We have plenty of room for sheep though, outside.

Mr. RUCKER of Colorado. Outside of the fence?

Mr. KINKAID of Nebraska. Yes; outside of the fence.

Mr. MANN. Does the gentleman think any ordinary barbed wire fence would be sufficient to keep a bull moose inclosed?

Mr. KINKAID of Nebraska. When he is properly domesticated; yes.

Mr. MANN. If the gentleman knows of any fence which will keep a bull moose within bounds, I am sure he can sell the fence at a very high price. [Laughter.]

Mr. KINKAID of Nebraska. I should like very much to have a vote on my amendment. I regard it as a very meritorious proposition.

Mr. FITZGERALD. Mr. Chairman, the document read by the gentleman indicates that this amendment should not be permitted to pass without some comment. It appears that some estimable persons have corraled and have been nurturing and caring for a herd of buffalo, elk, and other wild animals. The care of this herd having become burdensome to them, the suggestion has been made that the Federal Government is the proper place to apply to relieve these individuals of the burden of voluntarily maintaining this very estimable enterprise. The person or party having on its back this peculiar animal or aggregation of animals offered to donate them to the people of the United States, and a representative of the Department of Agriculture urged before the committee, as one of the most persuasive arguments in favor of the Federal Government providing for the animals, that there were some private individuals who themselves had really been anxious to do this work. That was such an unheard-of thing under modern conditions that the Government should not hesitate a moment to appropriate the money and prohibit or prevent any private individual engaging in this enterprise.

I have no doubt that before long gentlemen on that side will regret that they had not included bull mooses in this array of wild animals that are to be corraled at some place in Nebraska, Montana, or other unknown and remote parts of the United States.

Mr. BURLESON. Unexplored regions.

Mr. FITZGERALD. Perhaps as the mangled remains of the bull mooses are found strewn from one end of the country to the other we will later be ready to give them decent interment; but I think it wise to permit certain of them to roam at large at present, conscious that the country and the Democratic Party will be very greatly benefited.

Mr. HARDY. Mr. Chairman, will the gentleman yield?

Mr. FITZGERALD. Yes.

Mr. HARDY. Mr. Chairman, a gentleman sitting by my side has suggested, inasmuch as the gentleman from New York has several times used the term "bull mooses," whether the plural of the term "bull moose" is "bull mooses" or "bull meese."

Mr. FITZGERALD. Mr. Chairman, the chief bull moose is perhaps better equipped to determine that question than anyone else, and I should have to refer to him.

Mr. RUCKER of Colorado. I want to say to the gentleman from New York that the West is not the habitat of the bull moose.

Mr. FITZGERALD. Mr. Chairman, it is anticipated that a certain cross between other breeds of animals will produce a very satisfactory type of animal that will be accepted into full membership in the bull moose herd. But rather than permit any discrimination against this particular type of animal at this time, anxious that they may all have an equal opportunity under the law, with special privilege to none, I shall be compelled to insist on the point of order.

Mr. SLOAN. Mr. Chairman, will the gentleman reserve his point of order for just one moment?

Mr. FITZGERALD. I will reserve it for just one moment.

Mr. SLOAN. Mr. Chairman, in order that there may be no political phase or color to this, I may say that the man who offers to donate this herd is a constituent of mine and is noted for two particular things. One is his lifelong devotion to saving the American buffalo, as there are but few living now, and the other is his lifelong devotion to Democracy, so that the matter has no political flavor.

Mr. FITZGERALD. Mr. Chairman, I would not encourage the gentleman to give up his lifelong devotion to either one of those things.

Mr. SLOAN. He would like to fasten his politics, like the rest of you, on the Government for a short time.

Mr. FITZGERALD. Mr. Chairman, I shall not permit his Democracy to be impaired by permitting him to be a party to a scheme to relieve himself of a burden at the expense of all of the people.

Mr. SLOAN. I regret there is so much fear on the part of any of the gentlemen in the way of a deer or a moose or anything of the kind.

Mr. BURLESON. Mr. Chairman, I demand the regular order.

The CHAIRMAN. The point of order is sustained, and the Clerk will read.

The Clerk read as follows:

SEC. 3. Refund of sums paid for documentary stamps: The time within which claims may be presented for refunding the sums paid for documentary stamps used on foreign bills of exchange drawn between July 1, 1898, and June 30, 1901, against the value of products or merchandise actually exported to foreign countries, specified in the act entitled "An act to provide for refunding stamp taxes paid under the act of June 30, 1898, upon foreign bills of exchange drawn between July 1, 1898, and June 30, 1901, against the value of products or merchandise actually exported to foreign countries and authorizing rebate of duties on anthracite coal imported into the United States from October 6, 1902, to January 15, 1903, and for other purposes," approved February 1, 1909, be, and is hereby, extended to December 1, 1912.

Mr. MANN. Mr. Chairman, I make a point of order against the section.

Mr. FITZGERALD. Does the gentleman make it?

Mr. MANN. I will reserve it for a moment, if the gentleman desires.

Mr. FITZGERALD. Mr. Chairman, the gentleman from Maryland [Mr. LINTHICUM] called the attention of the committee to the fact that a constituent of his has some claims aggregating about six hundred and some odd dollars, and accounts for the delay in obtaining the information upon which the claim may be presented by the fire in Baltimore some years ago. At that time his property was destroyed and with it all his accounts, papers, and other property. At the last session of the last Congress the time was extended one year because of three cases having come to the attention of the committee. It seems this gentleman has now procured the evidence upon which his claim might be allowed, and he asks the committee to extend the time, so as to give him an opportunity to present his claim to the department. The time has been extended on two or three other occasions.

Mr. MANN. Mr. Chairman, this is a claim which is 8 or 10 years old or thereabouts. The Baltimore fire was quite a number of years ago. The time has been extended a number of times, and unless it is the policy to make an unlimited extension of time I do not see why it should be extended another year. I make the point of order.

The CHAIRMAN. The point of order is sustained and the Clerk will read.

The Clerk read as follows:

SEC. 4. The Secretary of War is authorized and directed to grant and lease in the manner hereinafter provided, for a period of 25 years, such surplus water of the United States within the limits of or pertaining to the military reservation of Schofield Barracks (Waianae Uka), island of Oahu, Territory of Hawaii, as may not be needed for the supply of the military post and troops on said reservation; and he is further authorized and directed to include in such grant or lease authority to the grantee or lessee thereunder to enter upon such reservation and make surveys thereon for, and construct and maintain, dams, reservations, canals, ditches, flumes, tunnels, and pipe lines for the purpose of diverting and conducting from the reservation the water covered by such grant or lease at such places on said land as said grantee or lessee may select, subject to the approval of the Secretary of War; and to include also the right to said grantee or lessee to take from the lands of the United States adjacent thereto, subject to the approval of the Secretary of War, earth and stone necessary for such construction and maintenance: *Provided*, That said grant or lease shall be made to or entered into with the highest responsible bidder for such surplus water, under sealed proposal, after public advertisement of the terms and conditions thereof for a period of not less than 30 days in a newspaper or newspapers of general circulation published at Honolulu, in the Territory of Hawaii; such terms and conditions to be fixed by the Secretary of War when not inconsistent with the provisions of this section: *Provided further*, That the right to amend, alter, or repeal this section is hereby expressly reserved.

Mr. MANN. Mr. Chairman, I make the point of order against the section. This is the second time this matter has been up. I would be glad to reserve it if the gentleman desires to discuss it at this time.

Mr. FITZGERALD. Mr. Chairman, unless it is possible to convince the gentleman it is hardly worth while wasting the time now.

Mr. MANN. Mr. Chairman, I will say frankly to the gentleman that I am not familiar with the merits of the case and do not make the point of order upon that ground. I make the point of order because I think a matter of this sort ought to be considered by the Appropriation Committee of the House and brought into the House for consideration.

Mr. FITZGERALD. I shall not delay the committee with a statement of the matter at this time. It will be done a little later.

The CHAIRMAN. The point of order is sustained.

Mr. FITZGERALD. Mr. Chairman, I move that the committee do now rise.

The motion was agreed to.

Accordingly the committee rose; and the Speaker having resumed the chair, Mr. HAMMOND, Chairman of the Committee of the Whole House on the state of the Union, reported that that committee had had under consideration the bill H. R. 25970, the general deficiency appropriation bill, and had come to no resolution thereon.

WITHDRAWAL OF PAPERS—MARGARET FURNIER.

By unanimous consent, Mr. Foss was granted leave to withdraw from the files of the House, without leaving copies, papers in the case of H. R. 5218, Sixty-second Congress, granting a pension to Margaret Furnier, no adverse report having been made thereon.

ROBERT W. ARCHBALD.

Mr. FITZGERALD. Mr. Speaker, I ask unanimous consent for the present consideration of Senate joint resolution 122, providing for the payment of the expenses of the Senate in the impeachment trial of Robert W. Archbald, which I send to the desk and ask to have read.

Mr. MANN. Mr. Speaker, I suggest that the gentleman ask unanimous consent that it be considered in the House as in Committee of the Whole.

Mr. FITZGERALD. Mr. Speaker, I ask unanimous consent that it be considered in the House as in Committee of the Whole.

The SPEAKER. The gentleman from New York asks unanimous consent for the present consideration of Senate joint resolution 122, and pending that asks unanimous consent to consider it in the House as in Committee of the Whole House. Is there objection to the last request? [After a pause.] The Chair hears none. Is there objection to the first? [After a pause.] The Chair hears none. The Clerk will report the resolution.

The Clerk read as follows:

Joint resolution (S. J. Res. 122) providing for the payment of the expenses of the Senate in the impeachment trial of Robert W. Archbald.

Resolved, etc., That there be appropriated from any money in the Treasury not otherwise appropriated the sum of $10,000, or so much thereof as may be necessary, to defray the expenses of the Senate in the impeachment trial of Robert W. Archbald.

The joint resolution was ordered to be read a third time, was read the third time, and passed.

On motion of Mr. FITZGERALD, a motion to reconsider the vote by which the joint resolution was passed was laid on the table.

EXCISE BILL.

The SPEAKER. The Chair refers the bill H. R. 21214, commonly known as the excise bill, to the Committee on Ways and Means.

SENATE JOINT RESOLUTION REFERRED.

Under clause 2 of Rule XXIV, Senate joint resolution of the following title was taken from the Speaker's table and referred to its appropriate committee as indicated below:

S. J. Res. 125. Joint resolution making appropriation for checking the ravages of the army worm; to the Committee on Agriculture.

HOUSE BILLS WITH SENATE AMENDMENTS REFERRED.

Under clause 2 of Rule XXIV, House bills of the following titles were taken from the Speaker's table and referred to their appropriate committees as indicated below:

H. R. 38. An act to create a legislative assembly in the Territory of Alaska, to confer legislative power thereon, and for other purposes; to the Committee on the Territories.

H. R. 22195. An act to reduce the duties on wool and manufactures of wool; to the Committee on Ways and Means.

ENROLLED BILLS SIGNED.

Mr. CRAVENS, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled bills of the following titles, when the Speaker signed the same:

H. R. 25598. An act granting a pension to Cornelia C. Bragg; and

H. R. 21480. An act to establish a standard barrel and standard grade for apples when packed in barrels, and for other purposes.

The SPEAKER announced his signature to enrolled bill of the following title:

S. 4930. An act to harmonize the national law of salvage with the provisions of the international convention for the unification of certain rules with respect to assistance and salvage at sea, and for other purposes.

ADJOURNMENT.

Mr. FITZGERALD. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 5 o'clock and 13 minutes p. m.) the House adjourned to meet Monday, July 29, 1912, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS.

Under clause 2 of Rule XXIV, a letter from the Secretary of Commerce and Labor, submitting estimates of appropriations with reference to additional aids to navigation in the Lighthouse Service (H. Doc. No. 893), was taken from the Speaker's table, referred to the Committee on Appropriations, and ordered to be printed.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS.

Under clause 2 of Rule XIII, bills and resolutions were severally reported from committees, delivered to the Clerk, and referred to the several calendars therein named, as follows:

Mr. FLOOD of Virginia, from the Committee on Foreign Affairs, to which was referred the bill (H. R. 22589) to provide for the acquisition of premises for the diplomatic establishments of the United States at the City of Mexico, Mexico; Tokyo, Japan; and Berne, Switzerland; and for the consular establishment of the United States at Hankow, China, reported the same without amendment, accompanied by a report (No. 1073), which said bill and report were referred to the Committee of the Whole House on the state of the Union.

Mr. HOBSON, from the Committee on Naval Affairs, to which was referred the bill (H. R. 25715) providing that officers of the Navy be allowed pay from the dates they take rank, reported the same without amendment, accompanied by a report (No. 1089), which said bill and report were referred to the Committee of the Whole House on the state of the Union.

Mr. ROBINSON, from the Committee on the Public Lands, to which was referred the bill (S. 7157) to make uniform charges for furnishing copies of records of the Department of the Interior and of its several bureaus, reported the same without amendment, accompanied by a report (No. 1090), which said bill and report were referred to the Committee of the Whole House on the state of the Union.

REPORTS OF COMMITTEES ON PRIVATE BILLS AND RESOLUTIONS.

Under clause 2 of Rule XIII, private bills and resolutions were severally reported from committees, delivered to the Clerk, and referred to the Committee of the Whole House, as follows:

Mr. HEALD, from the Committee on Claims, to which was referred the bill H. R. 20377, reported in lieu thereof a resolution (H. Res. 643) referring to the Court of Claims the papers in the case of Ynchausti & Co., accompanied by a report (No. 1074), which said resolution and report were referred to the Private Calendar.

Mr. STEPHENS of Mississippi, from the Committee on Claims, to which was referred the bill (H. R. 18894) for the relief of the heirs of the late Samuel H. Donaldson, reported the same with amendment, accompanied by a report (No. 1075), which said bill and report were referred to the Private Calendar.

Mr. CATLIN, from the Committee on Claims, to which was referred the bill (H. R. 23123) for the relief of Lena Schmieder, reported the same with amendment, accompanied by a report (No. 1076), which said bill and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill (H. R. 24081) for the relief of Henry Hirschberg, reported the same without amendment, accompanied by a report (No. 1077), which said bill and report were referred to the Private Calendar.

Mr. DICKINSON, from the Committee on Claims, to which was referred the bill (H. R. 17140) for the relief of John A. Gauley, reported the same without amendment, accompanied by a report (No. 1078), which said bill and report were referred to the Private Calendar.

Mr. HEALD, from the Committee on Claims, to which was referred the bill (H. R. 21849) for the relief of Felix Morgan, reported the same with amendment, accompanied by a report (No. 1079), which said bill and report were referred to the Private Calendar.

Mr. DICKINSON, from the Committee on Claims, to which was referred the bill (H. R. 23329) for the relief of the heirs of Robert H. Burney and C. J. Fuller, deceased, reported the same without amendment, accompanied by a report (No. 1080), which said bill and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill (H. R. 9129) for the relief of the estate of William H. Willis, reported the same without amendment, accompanied by a report (No. 1081), which said bill and report were referred to the Private Calendar.

Mr. HEALD, from the Committee on Claims, to which was referred the bill (H. R. 22257) for the relief of Leo Müller, reported the same with amendment, accompanied by a report (No. 1082), which said bill and report were referred to the Private Calendar.

Mr. DICKINSON, from the Committee on Claims, to which was referred the bill (H. R. 23253) to compensate G. W. Wall, of Cheatham County, Tenn., for damages sustained by him on account of the construction of Lock and Dam A on the lower Cumberland River, reported the same with amendment, accompanied by a report (No. 1083), which said bill and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill (H. R. 23254) to compensate J. E. Stewart, of Cheatham County, Tenn., for damages sustained by him on account of the construction of Lock and Dam A on the lower Cumberland River, reported the same with amendment, accompanied by a report (No. 1084), which said bill and report were referred to the Private Calendar.

Mr. STEPHENS of Mississippi, from the Committee on Claims, to which was referred the bill (H. R. 12339) to refund certain taxes paid by the Southern Redistilling & Rectifying Co. (Ltd.), of New Orleans, La., reported the same with amendment, accompanied by a report (No. 1085), which said bill and report were referred to the Private Calendar.

Mr. HEALD, from the Committee on Claims, to which was referred the bill (S. 2199) to carry into effect findings of the Court of Claims in the cases of Charles A. Davidson and Charles M. Campbell, reported the same without amendment, accompanied by a report (No. 1086), which said bill and report were referred to the Private Calendar.

Mr. STEPHENS of Mississippi, from the Committee on Claims, to which was referred the bill (S. 4041) for the relief of Elizabeth Muhleman, widow, and the heirs at law of Samuel A. Muhleman, deceased, reported the same without amendment, accompanied by a report (No. 1087), which said bill and report were referred to the Private Calendar.

Mr. FARR, from the Committee on Claims, to which was referred the bill (S. 4032) for the relief of C. Person's Sons, reported the same without amendment, accompanied by a report (No. 1088), which said bill and report were referred to the Private Calendar.

CHANGE OF REFERENCE.

Under clause 2 of Rule XXII, committees were discharged from the consideration of the following bills, which were thereupon referred as follows:

A bill (H. R. 25813) for the relief of Bishop T. Raymond; Committee on Claims discharged, and referred to the Committee on War Claims.

A bill (H. R. 16697) granting an increase of pension to Mary A. Pfister; Committee on Pensions discharged, and referred to the Committee on Invalid Pensions.

PUBLIC BILLS, RESOLUTIONS, AND MEMORIALS.

Under clause 3 of Rule XXII, bills, resolutions, and memorials were introduced and severally referred as follows:

By Mr. ADAMSON: A bill (H. R. 26005) to provide for the establishment of one life-saving station on the larger of the two Libby Islands situated at the entrance to Machias Bay, Me.; one life-saving station at Half Moon Bay, south of Point Montara and near Montara Reef, Cal.; one life-saving station at Mackinac Island, Mich.; and one life-saving station at or near Sea Gate, New York Harbor, N. Y.; to the Committee on Interstate and Foreign Commerce.

By Mr. SULZER: A bill (H. R. 26006) to reduce postage rates, improve the postal service, and increase postal revenues; to the Committee on the Post Office and Post Roads.

By Mr. HEFLIN: A bill (H. R. 26007) to authorize the building of a dam across the Coosa River in Alabama, at a place suitable to the interests of navigation, about 7½ miles above the city of Wetumpka; to the Committee on Interstate and Foreign Commerce.

By Mr. REDFIELD: A bill (H. R. 26008) to amend an act of February 1, 1901, chapter 190, entitled "An act providing for leave of absence of certain employees of the Government"; to the Committee on Naval Affairs.

By Mr. GREEN of Iowa: A bill (H. R. 26009) to amend section 4766 of the Revised Statutes of the United States; to the Committee on Invalid Pensions.

By Mr. FARR: A bill (H. R. 26010) providing for the purchase of a site and the erection thereon of a public building at Olyphant, in the State of Pennsylvania; to the Committee on Public Buildings and Grounds.

By Mr. EVANS: Resolution (H. Res. 644) requesting that the Secretary of the Navy furnish information of the naval maneuvers about Narragansett Bay; to the Committee on Naval Affairs.

By Mr. LAMB: Resolution (H. Res. 645) authorizing the printing of Senate Document No. 10, Sixty-second Congress; to the Committee on Printing.

Also, resolution (H. Res. 646) providing for printing the final report of the National Monetary Commission; to the Committee on Printing.

By Mr. SHARP: Resolution (H. Res. 647) directing the Secretary of the Treasury to furnish information looking to economies in the engraving and printing of national bank notes; to the Committee on Banking and Currency.

PRIVATE BILLS AND RESOLUTIONS.

Under clause 1 of Rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. ANDERSON of Ohio: A bill (H. R. 26011) granting an increase of pension to Delight Hubbard; to the Committee on Invalid Pensions.

By Mr. BYRNS of Tennessee: A bill (H. R. 26012) granting an increase of pension to John N. Smith; to the Committee on Pensions.

By Mr. CURLEY: A bill (H. R. 26013) granting an increase of pension to William Fay; to the Committee on Invalid Pensions.

By Mr. HANNA: A bill (H. R. 26014) granting an increase of pension to John F. Pettit; to the Committee on Invalid Pensions.

By Mr. HELGESEN: A bill (H. R. 26015) granting a pension to Flora May Baker; to the Committee on Invalid Pensions.

By Mr. HILL: A bill (H. R. 26016) granting a pension to Mary C. Pierce; to the Committee on Invalid Pensions.

By Mr. LEE of Pennsylvania: A bill (H. R. 26017) granting an increase of pension to Isaac Jones; to the Committee on Invalid Pensions.

By Mr. McGILLICUDDY: A bill (H. R. 26018) to remove the charge of desertion from the record of Francis G. French, alias Frank Jones; to the Committee on Naval Affairs.

By Mr. PATTON of Pennsylvania: A bill (H. R. 26019) granting an increase of pension to Patrick Kelley; to the Committee on Invalid Pensions.

By Mr. PROUTY: A bill (H. R. 26020) granting an increase of pension to Stephen B. White; to the Committee on Invalid Pensions.

PETITIONS, ETC.

Under clause 1 of Rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

By Mr. AIKEN of South Carolina: Petition of John H. Winder Division, Brotherhood of Locomotive Engineers, Abbeville, S. C., favoring the passage of the workmen's compensation act; to the Committee on the Judiciary.

By Mr. BYRNS of Tennessee: Papers accompanying bill granting an increase of pension to John N. Smith; to the Committee on Invalid Pensions.

By Mr. CRAVENS: Petition of the railway employees of Little Rock, Ark., protesting against the passage of the employers' liability and workmen's compensation act; to the Committee on the Judiciary.

By Mr. CURLEY: Petition of citizens of greater Boston and Roxbury, Mass., and of the John Mitchell Club, of Boston, protesting against the passage of the Burton-Littleton bill making appropriation for celebrating 100 years' peace with England; to the Committee on Industrial Arts and Expositions.

By Mr. DICKINSON: Papers to accompany bill granting a pension to Sarah J. Drummond; to the Committee on Invalid Pensions.

By Mr. DONOHOE: Petition of Gen. Henry R. Guss Post, West Chester, Pa., favoring legislation abolishing the office of pension agent; to the Committee on Pensions.

By Mr. MAGUIRE of Nebraska: Petition of citizens of Nebraska, favoring giving the Interstate Commerce Commission further power toward controlling the express rates and classifications; to the Committee on Interstate and Foreign Commerce.

By Mr. McKELLAR: Petition of citizens of Tennessee along the banks of the Mississippi River, praying for relief because of floods; to the Committee on Rivers and Harbors.

By Mr. O'SHAUNESSY: Petition of citizens of New England, favoring all possible means for the suppression of the liquor traffic; to the Committee on the Judiciary.

By Mr. SHERLEY: Petition of citizens of Kentucky, protesting against the passage of the Burnett immigration bill (H. R. 22527); to the Committee on Immigration and Naturalization.

By Mr. WILLIS: Papers to accompany House bill 8070, granting an increase of pension to Seth Clark; to the Committee on Invalid Pensions.

SENATE.

MONDAY, *July 29, 1912.*

Prayer by the Chaplain, Rev. Ulysses G. B. Pierce, D. D.

The Secretary proceeded to read the Journal of the proceedings of Saturday last, when, on request of Mr. SMOOT and by unanimous consent, the further reading was dispensed with and the Journal was approved.

MEMORIAL.

Mr. CRANE presented a memorial of the Board of Trade of Worcester, Mass., remonstrating against the passage of the so-called Bourne parcel-post bill, which was referred to the Committee on Post Offices and Post Roads.

REPORTS OF COMMITTEES.

Mr. PENROSE. I report back adversely from the Committee on Finance the bill (H. R. 24153) to amend and reenact section 5241 of the Revised Statutes of the United States and I submit a report (No. 989) thereon. As the minority of the committee reserves the right to file minority views, I ask that the bill may go to the calendar.

The PRESIDENT pro tempore (Mr. GALLINGER). The bill will be placed on the calendar.

Mr. McCUMBER. I was just about to announce that members of the Finance Committee would submit minority views in opposition to the adverse report.

Mr. WILLIAMS. I understand also that the Senator from North Dakota will submit a bill as a substitute for the bill adversely reported.

Mr. McCUMBER. That is correct.

Mr. BURNHAM, from the Committee on Pensions, to which was referred the amendment submitted by Mr. McCUMBER on the 26th instant, proposing to appropriate $1,200 to pay Robert W. Farrar for indexing and extra services as clerk to the Committee on Pensions, Sixty-second Congress, first and second ses-